



COUNCIL CHAMBERS

17555 PEAK AVENUE MORGAN HILL CALIFORNIA 95037

COUNCIL MEMBERS

Dennis Kennedy, Mayor
Mark Grzan, Mayor Pro Tempore
Larry Carr, Council Member
Greg Sellers, Council Member
Steve Tate, Council Member

REDEVELOPMENT AGENCY

Dennis Kennedy, Chair
Mark Grzan, Vice-Chair
Larry Carr, Agency Member
Greg Sellers, Agency Member
Steve Tate, Agency Member

WEDNESDAY, APRIL 19, 2006

AGENDA

JOINT MEETING

CITY COUNCIL SPECIAL & REGULAR MEETING

and

REDEVELOPMENT AGENCY REGULAR MEETING

A Special Meeting of the City Council is called at 5:30 P.M. to Conduct Interviews for the Parks & Recreation and Library, Culture & Arts Commission Vacancies.

Dennis Kennedy, Mayor/Chairman

CALL TO ORDER

(Mayor/Chairperson Kennedy)

ROLL CALL ATTENDANCE

(City Clerk/Agency Secretary Torrez)

DECLARATION OF POSTING OF AGENDA

Per Government Code 54954.2

(City Clerk/Agency Secretary Torrez)

5:30 P.M.

City Council Action

INTERVIEWS:

	Time Estimate		Page
1.	75 Minutes	<u>INTERVIEWS TO FILL VACANCIES ON THE LIBRARY, CULTURE & ARTS AND PARKS & RECREATION COMMISSIONS</u>	9
		<u>Recommended Action(s):</u>	
1.		<u>Council Discussion</u> Regarding the Characteristics and Traits Council is Seeking in Candidates to Serve on the Library, Culture & Arts Commission, and the Parks & Recreation Commission;	
2.		<u>Conduct</u> Interviews;	
3.		<u>Identify</u> Top Candidates Up to the Number of Vacancies Available on these Commissions, Plus 1, as Deemed Appropriate; and	
4.		<u>Mayor to Return with Recommended Appointments</u> for Council Discussion and Ratification of Appointments.	

7:00 P.M.

SILENT INVOCATION

PLEDGE OF ALLEGIANCE

PROCLAMATIONS

National Volunteer Month

Stephen T. Quigley, Volunteer Center of Silicon Valley

Voter Education Month

City Clerk Torrez

CITY COUNCIL REPORT

Mayor Kennedy

CITY COUNCIL SUB-COMMITTEE REPORTS

CITY MANAGER'S REPORT

CITY ATTORNEY'S REPORT

OTHER REPORTS

PUBLIC COMMENT

NOW IS THE TIME FOR COMMENTS FROM THE PUBLIC REGARDING ITEMS NOT ON THIS AGENDA.
(See notice attached to the end of this agenda.)

PUBLIC COMMENTS ON ITEMS APPEARING ON THIS AGENDA WILL BE TAKEN AT THE TIME THE ITEM IS ADDRESSED BY THE COUNCIL. PLEASE COMPLETE A SPEAKER CARD AND

PRESENT IT TO THE CITY CLERK.
(See notice attached to the end of this agenda.)

**PLEASE SUBMIT WRITTEN CORRESPONDENCE TO THE CITY CLERK/AGENCY SECRETARY. THE
CITY CLERK/AGENCY SECRETARY WILL FORWARD CORRESPONDENCE TO THE CITY
COUNCIL/REDEVELOPMENT AGENCY.**

City Council Action

CONSENT CALENDAR:

ITEMS 2-10 The Consent Calendar may be acted upon with one motion, a second and the vote, by each respective Agency. The Consent Calendar items are of a routine or generally uncontested nature and may be acted upon with one motion. Pursuant to Section 5.1 of the City Council Rules of Conduct, any member of the Council or public may request to have an item pulled from the Consent Calendar to be acted upon individually.

Time Estimate

Page

Consent Calendar: 1 - 10 Minutes

2. [INDOOR RECREATION CENTER PROJECT – MARCH CONSTRUCTION PROGRESS REPORT](#)21
Recommended Action(s): Information Only.
3. [CENTENNIAL INDOOR RECREATION CENTER REQUEST FOR ADDITIONAL FUNDING FOR BUILDING CHANGES](#)22
Recommended Action(s): Appropriate an Additional \$60,000 for Building Revisions.
4. [APPROVE APPLICATION FOR FEDERAL SURFACE TRANSPORTATION PROGRAM FUNDING FOR 2007-2008 STREET RESURFACING PROGRAM](#)23
Recommended Action(s): Adopt Resolution Supporting the Application for Federal Surface Transportation (STP) Program for the 2007-2008 Pavement Resurfacing Project.
5. [FINAL MAP APPROVAL FOR VILLAS OF SAN MARCOS](#)27
Recommended Action(s):
 1. Approve the Final Map, Subdivision Agreement and Improvement Plans;
 2. Authorize the City Manager to Sign the Subdivision Improvement Agreement on Behalf of the City; and
 3. Authorize the Recordation of the Map and the Subdivision Improvement Following Recordation of the Development Improvement Agreement.
6. [FINAL MAP APPROVAL ALICANTE PHASE III \(TRACT 9689\)](#)28
Recommended Action(s):
 1. Approve the Final Map, Subdivision Agreement, and Improvement Plans;
 2. Authorize the City Manager to Sign the Subdivision Improvement Agreement on Behalf of the City; and
 3. Authorize the Recordation of the Map and the Subdivision Improvement Agreement Following Recordation of the Development Improvement Agreement.

	Time Estimate	Page
	Consent Calendar: 1 - 10 Minutes	
7.	<u>GAVILAN COLLEGE USE OF THE MORGAN HILL COMMUNITY PLAYHOUSE FOR A FILM COURSE</u>29 Recommended Action(s): Direct Staff to Book the Morgan Hill Community Playhouse for a Gavilan College Film Course where Revenue Generated from the Course will be Shared between the City and Gavilan College in Lieu of Any Rental Charges for the Facility.	
8.	<u>CITY PROMOTED ENTERTAINMENT EVENTS AT THE MORGAN HILL COMMUNITY PLAYHOUSE</u>30. Recommended Action(s): Direct Staff to Book Entertainment Events at the Morgan Hill Community Playhouse where Ticket Sale Proceeds will be Split between the City and the Event Promoter in Lieu of Any Rental Charges for the Facility, Provided that at a Minimum the Promoter Pays the City's Out-Of-Pocket Costs for Use of the Facility for the Event.	
9.	<u>ADOPT ORDINANCE NO. 1765, NEW SERIES</u>31 Recommended Action(s): Waive the Reading, and Adopt Ordinance No. 1765, New Series, and Declare That Said Title, Which Appears on the Public Agenda, Shall be Determined to Have Been Read by Title and Further Reading Waived; Title as Follows: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING AN AMENDMENT TO ORDINANCE NO. 1658, NEW SERIES, TO AMEND DEVELOPMENT AGREEMENT DA-03-13 FOR APPLICATION MP 02-15: MISSION VIEW-MISSION RANCH TO ALLOW FOR THE INCORPORATION OF ONE ADDITIONAL ALLOCATION FOR FISCAL YEAR 2005-2006 (APN 728-32-008 & 009). DA-03-13: Mission View-Mission Ranch.	
10.	<u>ADOPT ORDINANCE NO. 1766, NEW SERIES</u>35 Recommended Action(s): Waive the Reading, and Adopt Ordinance No. 1766, New Series, and Declare That Said Title, Which Appears on the Public Agenda, Shall be Determined to Have Been Read by Title and Further Reading Waived; Title as Follows: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING AN AMENDMENT TO ORDINANCE NO. 1726, NEW SERIES, TO AMEND DEVELOPMENT AGREEMENT DA-05-01 FOR APPLICATION MP 04-26: MISSION VIEW-MISSION RANCH TO ALLOW FOR THE INCORPORATION OF FOUR ADDITIONAL ALLOCATIONS FOR FISCAL 2006-07 AND AMENDMENT TO PARAGRAPH 14 MODIFYING THE PER UNIT PUBLIC IMPROVEMENT COMMITMENT. (APN 728-32-008 & 009) DAA-05-01: Mission Ranch.	

Redevelopment Agency Action

CONSENT CALENDAR:

ITEM 11

	Time Estimate	Page
	Consent Calendar: 1 - 10 Minutes	
11.	<u>THIRD QUARTER REPORT FROM THE CHAMBER OF COMMERCE ECONOMIC DEVELOPMENT PARTNERSHIP</u> 39 Recommended Action(s): Accept the Report.	

City Council and Redevelopment Agency Action

CONSENT CALENDAR:

ITEM 12

Time Estimate

Page

Consent Calendar: 1 - 10 Minutes

12. [APPROVE JOINT SPECIAL AND REGULAR CITY COUNCIL AND REGULAR REDEVELOPMENT AGENCY MEETING MINUTES OF APRIL 5, 2006](#).....40

City Council Action

CONTINUED PUBLIC HEARINGS: (Continued from Meeting of April 5, 2006)

Time Estimate

Page

13. 45 Minutes [GENERAL PLAN AMENDMENT, GPA-05-05: CITY OF MORGAN HILL- URBAN LIMIT LINE/GREENBELT STUDY IMPLEMENTATION](#) (Continued from 04/05/06)75
Public Hearing Reconvened.
Please Limit Your Remarks to 3 Minutes. Public Hearing Closed
Council Discussion.
Action- **Approve** Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program.
Action- **Adopt** Resolution Approving General Plan Amendments.
14. 20 Minutes [URBAN SERVICE AREA APPLICATION, USA-05-02/ ZONING AMENDMENT APPLICATION, ZA-06-01/ ANNEXATION APPLICATION, ANX-03-01: EDMUNDSON-OAK MEADOWN PLAZA](#) (Continued from 04/05/06)100
Public Hearing Reconvened.
Please Limit Your Remarks to 3 Minutes. Public Hearing Closed
Council Discussion.
Action- **Adopt** Resolution Approving Expansion of the Urban Service Area.
Action- **Motion to Waive** the Reading in Full of Pre-zone Ordinance.
Action- **Motion to Introduce** Ordinance by Title Only. (Roll Call Vote)
Action- **Adopt** Resolution Approving Annexation of Property.

CONTINUED PUBLIC HEARINGS: (Continued from Meeting of April 5, 2006)

	Time Estimate		Page
15.	20 Minutes	<u>GENERAL PLAN AMENDMENT APPLICATION, GPA-05-06/ URBAN SERVICE AREA APPLICATION, USA-05-01/ ZONING AMENDMENT APPLICATION, ZA-05-27/ ANNEXATION APPLICATION, ANX-05-18: SANTA TERESA BOULEVARD-BLACKROCK</u> (Continued from 04/05/06).....	108
		Public Hearing Reconvened.	
		Please Limit Your Remarks to 3 Minutes. Public Hearing Closed	
		Council Discussion.	
		Action- <u>Adopt</u> Resolution Approving General Plan Amendment.	
		Action- <u>Adopt</u> Resolution Approving Expansion of the Urban Service Area.	
		Action- <u>Motion to Waive</u> the Reading in Full of Pre-zone Ordinance.	
		Action- <u>Motion to Introduce</u> Ordinance by Title Only. (Roll Call Vote)	
		Action- <u>Adopt</u> Resolution Approving Annexation of Property.	

City Council Action

PUBLIC HEARINGS:

	Time Estimate		Page
16.	5 Minutes	<u>DEVELOPMENT AGREEMENT AMENDMENT, DAA-04-06: COCHRANE-BORELLO</u>	118
		Public Hearing Opened.	
		Please Limit Your Remarks to 3 Minutes. Public Hearing Closed	
		Council Discussion.	
		Action- <u>Motion to Waive</u> the Reading in Full of Development Agreement Amendment Ordinance.	
		Action- <u>Motion to Introduce</u> Ordinance by Title Only. (Roll Call Vote)	
17.	15 Minutes	<u>APPLICATION GPA-05-01: AMENDMENT TO THE CIRCULATION ELEMENT FOR THE MADRONE PARKWAY EXTENSION</u>	123
		Public Hearing Opened.	
		Please Limit Your Remarks to 3 Minutes. Public Hearing Closed	
		Council Discussion.	
		Action- <u>Approve</u> Negative Declaration.	
		Action- <u>Adopt</u> Resolution Adding the Tilton Avenue Railroad Crossing as a Two-Lane Collector Street from Monterey Road to Hale Avenue/Future Santa Teresa Boulevard.	

City Council Action

OTHER BUSINESS:

	Time Estimate		Page
18.	10 Minutes	<u>PROPOSED TEXT AMENDMENTS TO TITLE 2, ADMINISTRATION AND PERSONNEL, OF THE MORGAN HILL MUNICIPAL CODE</u>	126
		<u>Recommended Action(s):</u>	
		1. <u>Motion to Waive</u> the Reading in Full of Ordinance; and	
		2. <u>Motion to Introduce</u> Ordinance by Title Only. (Roll Call Vote)	

FUTURE COUNCIL-INITIATED AGENDA ITEMS:

Note: in accordance with Government Code Section 54954.2(a), there shall be no discussion, debate and/or action taken on any request other than providing direction to staff to place the matter of business on a future agenda.

ADJOURNMENT

PUBLIC COMMENTS ON ITEMS *NOT* APPEARING ON AGENDA

Following the opening of Council/Agency business, the public may present comments on items *NOT* appearing on the agenda that are within the Council's/Agency's jurisdiction. Should your comments require Council/Agency action, your request will be placed on the next appropriate agenda. No Council/Agency discussion or action may be taken until your item appears on a future agenda. You may contact the City Clerk/Agency Secretary for specific time and dates. This procedure is in compliance with the California Public Meeting Law (Brown Act) G.C. 54950.5. Please limit your presentation to three (3) minutes.

PUBLIC COMMENTS ON ITEMS APPEARING ON AGENDA

The Morgan Hill City Council/Redevelopment Agency welcomes comments from all individuals on any agenda item being considered by the City Council/Redevelopment Agency. Please complete a Speaker Card and present it to the City Clerk/Agency Secretary. This will assist the Council/Agency Members in hearing your comments at the appropriate time. Speaker cards are available on the table in the foyer of the Council Chambers. In accordance with Government Code 54953.3 it is not a requirement to fill out a speaker card in order to speak to the Council/Agency. However, it is very helpful to the Council/Agency if speaker cards are submitted. As your name is called by the Mayor/Chairman, please walk to the podium and speak directly into the microphone. Clearly state your name and address and then proceed to comment on the agenda item. In the interest of brevity and timeliness and to ensure the participation of all those desiring an opportunity to speak, comments presented to the City Council/Agency Commission are limited to three minutes. We appreciate your cooperation.

NOTICE

AMERICANS WITH DISABILITIES ACT (ADA)

The City of Morgan Hill complies with the Americans with Disability Act (ADA) and will provide reasonable accommodation to individuals with disabilities to ensure equal access to all facilities, programs and services offered by the City. If you need special assistance to access the meeting room or to otherwise participate at this meeting, including auxiliary aids or services, please contact the Office of the City Clerk/Agency Secretary at City Hall, 17555 Peak Avenue or call 779-7259 or (Hearing Impaired only - TDD 776-7381) to request accommodation. Please make your request at least 48 hours prior to the meeting to enable staff to implement reasonable arrangements to assure accessibility to the meeting.

If assistance is needed regarding any item appearing on the City Council/Agency Commission agenda, please contact the Office of the City Clerk/Agency Secretary at City Hall, 17555 Peak Avenue or call 779-7259 or (Hearing Impaired only - TDD 776-7381) to request accommodation.

NOTICE

Notice is given, pursuant to Government Code Section 65009, that any challenge of Public Hearing Agenda items in court, may be limited to raising only those issues raised by you or on your behalf at the Public Hearing described in this notice, or in written correspondence delivered to the City Council/Agency Commission at, or prior to the Public Hearing on these matters.

NOTICE

The time within which judicial review must be sought of the action by the City Council/Agency Commission which acted upon any matter appearing on this agenda is governed by the provisions of Section 1094.6 of the California Code of Civil Procedure.



CITY COUNCIL STAFF REPORT

MEETING DATE: April 19, 2006

Agenda Item # 1

Prepared By:

**Council Services &
Records Manager/
City Clerk**

Submitted By:

City Manager

INTERVIEWS TO FILL VACANCIES ON THE LIBRARY, CULTURE & ARTS; AND PARKS & RECREATION COMMISSIONS

RECOMMENDED ACTIONS:

1. Council **discussion** about the characteristics/traits it is seeking in candidates to serve on the Library, Culture & Arts Commission; and the Parks & Recreation Commission;
2. Council to **conduct** interviews;
3. Council to **identify** top candidates up to the number of vacancies available on these Commissions, plus 1, as deemed appropriate; and
4. Mayor to **return with recommended** appointments for Council discussion and ratification of appointments

EXECUTIVE SUMMARY:

At the July 6, 2005 meeting, the Council agreed to proceed with the Mayor's fundamental principles for a recruitment, interview and appointment process (attached). The Council used these fundamental principles in the July 20, 2006 interview process. It is staff's belief the process implemented worked well, and is recommending that the Council apply the fundamental principals/process with its efforts to fill upcoming vacancies on the various Boards and Commissions.

Library, Culture & Arts Commission

There are five (5) vacancies on the Library, Culture & Arts Commission. Three (3) applications to serve on this committee were received. The Council is being asked to interview Einar Anderson, Chuck Dillmann and Marie Christine Briot-Connolly. (Applications attached)

Staff will note that on April 19, 2006, the City Council will be considering proposed amendments to Title 2, Administration and Personnel, of the Morgan Hill Municipal Code as they relate to Council appointed boards and commissions. One of the amendments to be considered is extending the residency requirement to apply to the Morgan Hill Unified School District boundary area. The requirement that applicants be registered voters of the City would be lifted. Should the Council agree to introduce the ordinance on April 19 and adopt the ordinance on April 26, 2006; the ordinance will take affect on May 27, 2006. Therefore, should there be any candidates that are not residents or registered voters of the City of Morgan Hill, Council appointment(s) will be contingent upon the ordinance taking effect.

Parks & Recreation Commission

There are four (4) vacancies on the Parks & Recreation Commission. Five (5) applications were received from individuals interested in serving on this Commission. The Council is being asked to interview Alan Clark, Mark Frederick, Kimberly Leiser, Marilyn Libers, and Craig van Keulen. (Applications attached)

Again, staff will note the Council will be considering proposed text amendments as they relate to boards and commissions on April 19. A proposed amendment for Council consideration will be the extension of terms for Parks & Recreation Commissioners from 2-years to 4-years. It would be appropriate for the Council to ask the applicants of their willingness to serve 4-year terms; once the ordinance takes effect.

FISCAL IMPACT: The time necessary to prepare this report is accommodated in the Council Services and Records Manager's operating budget.

FUNDAMENTAL PRINCIPLES FOR A RECRUITMENT, INTERVIEW AND APPOINTMENT PROCESS

1. Conduct active outreach for candidates
2. Council discussion of expectations of Board, Commission or Committee members
3. Application questionnaire to focus on Council expectations
4. Council to conduct interviews
5. Individual council members have the opportunity to suggest top candidates
6. Mayor should have at least one week to consider Council suggestions and other factors, including the need for continuity, match up candidates with needs, etc.
7. Mayor makes appointments subject to Council ratification, after further Council discussion.

The specific process is as follows:

- Council to identify the characteristics it is looking for in candidates to be appointed on boards, commissions and committees prior to conducting interviews.
- Council to identify specific questions to be included in the Board, Commission, or Committee applications relative to their charge
- Include a question for incumbents to inquire whether they are currently serving as chair/vice-chair, next in line to serve as chair/vice-chair to the board or commission, and/or are assigned to a special project
- Council to conduct interviews and ask clarifying questions.
- Council to discuss the characteristics of each candidate (e.g., new voice, experience, etc.)
- Each Councilmember would identify their top candidates to fill vacancies plus one. Councilmembers can vote for the number of candidates for vacancies available plus one. (See attached)
- Mayor to consider Council members' top candidates; returning to the Council at a following meeting with a recommended appointment(s)
- Council to discuss recommended appointment(s)
- Council ratifies the Mayor's appointment

**DENNIS KENNEDY, MAYOR
JULY 6, 2005**

INTERVIEW/APPOINTMENT BALLOT PROCESS

There are 3 vacancies on the Commission. Please identify your top 3 candidates plus 1 additional individual.

	Carr	Grzan	Kennedy	Sellers	Tate	Recommended Appointments
Applicant 1	X		X			2 top candidate votes received
Applicant 2		X	X	X	X	4 top candidate votes received
Applicant 3	X	X		X	X	4 top candidate votes received
Applicant 4		X	X	X		3 top candidate votes received
Applicant 5	X	X	X	X	X	5 top candidate votes received
Applicant 6	X				X	2 top candidate votes received

Mayor evaluates the Council's top candidate recommended appointments, taking into consideration other factors before returning to the Council with a recommendation (e.g., is an applicant serving as chair, is assigned to a special project, is familiar with local governance, etc.)



CITY COUNCIL STAFF REPORT

MEETING DATE: *April 19, 2006*

INDOOR RECREATION CENTER PROJECT – MARCH CONSTRUCTION PROGRESS REPORT

RECOMMENDED ACTION(S): *Information Only*

EXECUTIVE SUMMARY:

Previous Council action awarded the contract for construction of the Indoor Recreation Center Project to West Coast Contractors, Inc. At that time, staff informed Council that we would report monthly on the progress of the construction. Attached is the progress report for the month of March. This report has been sent to our webmaster for posting on the City's website. Current construction activity can be viewed live on the internet at www.novapartners.com/mhirc.

Although the natatorium roof has been installed and the contractor has essentially "dried in" this area, record inclement weather in March has delayed installation of the "built-up" roof in area B (locker rooms, fitness, aerobics and administration). As of this report (thru 3/31/06), the schedule has slipped approximately 10 calendar days beyond the allowed 14 due to the rain. The contractor needs approximately three weeks of continuous dry weather to complete the built-up roof. Should inclement weather continue without the needed "break," the completion date would also be extended accordingly. West Coast Contractors continue making good progress on the remaining "dried in" portions of the building. Barring any unforeseen circumstances, or if inclement weather were to continue in April, the anticipated Grand Opening has been pushed back to at least the end of September 2006. The project is currently within budget.

FISCAL/RESOURCE IMPACT: None

Agenda Item # 2

Prepared By:

Sr. Project Manager

Approved By:

Public Works Director

Submitted By:

City Manager



CITY COUNCIL STAFF REPORT

MEETING DATE: April 19, 2006

CENTENNIAL INDOOR RECREATION CENTER ADDITIONAL FUNDING REQUEST FOR BUILDING CHANGES

RECOMMENDED ACTION: Appropriate an additional \$60,000 for Building Revisions

EXECUTIVE SUMMARY: The recent City and YMCA Operational Partnership has resulted in the YMCA's request to make building revisions to three rooms, purchase additional furniture, and increase the pool's depth in the lap swim area. The YMCA requests these changes to better accommodate the YMCA Membership Model and increase revenue generation. The changes are estimated to cost \$60,000. Below is a summary of the needed changes and the related recommendations:

1) YMCA Office Space

Add office space to accommodate membership sales. Membership sales are critical to the financial success of this facility. This can be done by reducing the vending room area by 50%.

To accomplish this, the YMCA recommends converting a closet in the Fitness Room and the First Aid Room to office space for Program Directors. It is critical that Program Directors be located near the Health and Fitness Programming area to build better customer relationships and provide proper supervision. The YMCA experience is that a dedicated space for first aid is not necessary.

2) Aquatics

Deepen the pool in the lap swim area from 4 feet 6 inches to 5 feet. According to a combined City/YMCA marketing study, water fitness is the third most popular aquatics program. At a depth of 4 feet 6 inches water fitness classes would accommodate only a minimal number of participants. Increasing the water depth is critical for membership retention and according to the City's Aquatics Supervisor, Angela Papp, is advantageous because the increased depth will: 1) Serve a greater number of participants 2) Better accommodate more advanced swimming lessons, adaptive aquatic activities for the mobility impaired, and Seniors.

The construction schedule calls for the pool excavation to begin April 17. For this reason, and the fact that time is needed to make architectural design changes, it is timely that Council make a decision tonight regarding the proposed building revisions.

FISCAL/RESOURCE IMPACT: The \$60,000 in estimated additional costs for the proposed changes is not budgeted or available within the construction contingency. If Council approves the building changes as proposed, it will be necessary to appropriate an additional \$60,000 of unallocated redevelopment funds to the project.

Agenda Item #3

Prepared By:

**Dep Dir
PW/Operations**

Approved By:

Public Works Director

Submitted By:

City Manager



CITY COUNCIL STAFF REPORT

MEETING DATE: *April 19, 2006*

RESOLUTION APPROVING APPLICATION FOR FEDERAL SURFACE TRANSPORTATION PROGRAM FUNDING FOR 2007-08 STREET RESURFACING PROGRAM

RECOMMENDED ACTION(S): Adopt attached Resolution supporting the application for Federal Surface Transportation (STP) Program for the 2007-08 Pavement Resurfacing Project.

EXECUTIVE SUMMARY: The Santa Clara Valley Transportation Authority has issued a call for projects for the Federal Surface Transportation Program (STP) for Local Streets and Roads Rehabilitation for the funding cycle of 2007-08. The call for projects included requirements to submit a City Council Resolution approving of the application.

The Santa Clara Valley Transportation Authority estimates that \$285,779 in Federal Surface Transportation Program (STP) will be available to the City of Morgan Hill for Street Resurfacing needs in 2007-08. Pursuant to the City's Pavement Resurfacing Program an application is being made to use these funds to resurface West Main Avenue from Monterey Road to Peak Avenue and East Main Avenue from Carriage Lamp Way to Serene Drive. Combined with the City's resurfacing project in 2006-07 using additional STP and local funding, all of Main Avenue will be resurfaced from the Highway 101 over-crossing to Peak Avenue by Fiscal Year 2007-08.

A complete application for the additional STP funding must include an authorizing resolution approved by the City Council; the resolution is attached.

FISCAL/RESOURCE IMPACT: The \$32,778 local match funds will be available from FY 07/08 CIP Pavement Resurfacing Program Budget.

Agenda Item # 4

Prepared By:

**Deputy Director Public
Works/Operations**

Approved By:

Public Works Director

Submitted By:

City Manager

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL AUTHORIZING THE FILING OF AN APPLICATION FOR FEDERAL SURFACE TRANSPORTATION PROGRAM FUNDING FOR THE 2007-08 PAVEMENT RESURFACING PROGRAM AND COMMITTING THE NECESSARY NON-FEDERAL MATCH FOR THE PROJECT AND STATING THE ASSURANCE OF THE CITY OF MORGAN HILL TO COMPLETE THIS PROJECT

WHEREAS, the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA) (Public Law 109-59, August 10, 2005) continues the Surface Transportation Program (23 U.S.C. 133 and the Congestion Mitigation and Air Quality Improvement Program (CMAQ) (23 U.S.C. 149); and

WHEREAS, the SAFETEA legislation will guide STP, CMAQ, and TE programming until a SAFETEA bill is authorized; and

WHEREAS, pursuant to SAFETEA, and the regulations promulgated thereunder, eligible project sponsors wishing to receive Surface Transportation Program grants or Congestion Mitigation and Air Quality Improvement Program grants for a project shall submit an application first with the appropriate metropolitan transportation planning organization (MPO), for review and inclusion in the MPO's Transportation Improvement Program (TIP); and

WHEREAS, the Metropolitan Transportation Commission is the MPO for the San Francisco Bay Region; and

WHEREAS, the City of Morgan Hill is an eligible project sponsor for Surface Transportation Program or Congestion Mitigation and Air Quality Improvement Program funds; and

WHEREAS, the City of Morgan Hill wishes to submit an application to MTC for funds from the Surface Transportation Improvement Program in fiscal years 2006-07, 2007-08, and 2008-09 for the following project:

West Main Avenue from Monterey Road to Peak Avenue and E. Main Avenue from Carriage Lamp Way to Serene Drive.

WHEREAS, MTC requires, as a part of the application, a resolution stating the following:

- 1) the commitment of local matching funds of at least 11.47%; and
- 2) that the sponsor understands that the Surface Transportation Program and Congestion Mitigation and Air Quality Improvement Program funding is fixed at the programmed amount, and therefore any cost increase cannot be expected to be funded with Surface Transportation Program or Congestion Mitigation and Air Quality Improvement Program funds; and
- 3) the assurance of the sponsor to complete the project as described in the application, and if approved, programmed in the MTC's TIP, and
- 4) that the sponsor understands that the funds must be obligated by June 30 of the year that the project is programmed for in the TIP, or the project may be removed from the program; and

5) that the sponsor has a MTC certified pavement management system (PMS).

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Morgan Hill that the City Manager is authorized to execute and file an application for funding under the Surface Transportation Program of SAFTEA in the amount of \$285,779 for the resurfacing of West Main Avenue from Monterey Road to Peak Avenue and East Main Avenue from Carriage Lamp Way to Serene Drive; and

BE IT FURTHER RESOLVED by the City Council of the City of Morgan Hill that by adopting this resolution does hereby state that:

- 1) The City of Morgan Hill will provide \$32,778 in non-federal matching funds; and
- 2) The City of Morgan Hill understands that the Surface Transportation and Congestion Mitigation and Air Quality Improvement Program funding is fixed at \$285,779, and that any cost increases must be funded by the City of Morgan Hill from local matching funds, and that the City of Morgan Hill does not expect any cost increases to be funded with Surface Transportation and Congestion Mitigation and Air Quality Improvement Program funds; and
- 3) The 2007-08 Pavement Resurfacing Program will be built as described in this resolution and, if approved, for the amount shown in the Metropolitan Transportation Commission (MTC) Transportation Improvement Program (TIP) with obligation occurring within the timeframe established below; and
- 4) The program funds are expected to be obligated by June 30 of the year the project is programmed for in the TIP.

BE IT FURTHER RESOLVED that the City of Morgan Hill is an eligible sponsor of projects in the Surface Transportation Programs; and

BE IT FURTHER RESOLVED that the City of Morgan Hill is authorized to submit an application for the Surface Transportation Program funds for improvements to West Main Avenue from Monterey Road to Peak Avenue and East Main Avenue from Carriage Lamp Way to Serene Drive; and

BE IT FURTHER RESOLVED by the City Council of the City of Morgan Hill that there is no legal impediment to the City of Morgan Hill making applications for Local Streets and Roads Shortfall Program Funds; and

BE IT FURTHER RESOLVED by the City Council of the City of Morgan Hill that there is no pending or threatened litigation which might in any way adversely affect the proposed project, or the ability of the City of Morgan Hill to deliver such project; and

BE IT FURTHER RESOLVED by the City Council of the City of Morgan Hill that a copy of this resolution will be transmitted to the MTC in conjunction with the filing of the application; and

BE IT FURTHER RESOLVED by the City Council of the City of Morgan Hill that the MTC is requested to support the application for the project described in the resolution and to program the project, if approved, in MTC's TIP.

PASSED AND ADOPTED by the City Council of Morgan Hill at a Regular Meeting held on the 19th Day of April, 2006 by the following vote.

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:

🔊 CERTIFICATION 🔊

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA,
do hereby certify that the foregoing is a true and correct copy of Resolution No. , adopted by the City
Council at a Regular Meeting held on April 19, 2006.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

IRMA TORREZ, City Clerk



CITY COUNCIL STAFF REPORT

MEETING DATE: APRIL 19, 2006

FINAL MAP APPROVAL VILLAS OF SAN MARCOS

(TRACT 9767)

RECOMMENDED ACTION(S):

1. Approve the final map, subdivision agreement and improvement plans.
2. Authorize the City Manager to sign the Subdivision Improvement Agreement on behalf of the City.
3. Authorize the recordation of the map and the Subdivision Improvement Agreement following recordation of the Development Improvement Agreement.

EXECUTIVE SUMMARY:

Tract 9767 is a 18 lot subdivision located on the southwest corner of the Barret Avenue and San Ramon Drive intersection (see attached location map). The developer has completed all the conditions specified by the Planning Commission in the approval of the Tentative Map on July 26th 2005.

The developer has furnished the City with the necessary documents to complete the processing of the Final Map and has made provisions with a Title Company to provide the City with the required fees, insurance and bonds prior to recordation of the Final Map.

FISCAL/RESOURCE IMPACT:

Development review for this project is from development processing fees.

Agenda Item #5

Prepared By:

Assistant Engineer

Approved By:

Public Works Director

Submitted By:

City Manager



CITY COUNCIL STAFF REPORT

MEETING DATE: APRIL 19, 2006

FINAL MAP APPROVAL ALICANTE PHASE III (TRACT 9689)

RECOMMENDED ACTION(S):

1. Approve the final map, subdivision agreement and improvement plans.
2. Authorize the City Manager to sign the Subdivision Improvement Agreement on behalf of the City.
3. Authorize the recordation of the map and the Subdivision Improvement Agreement following recordation of the Development Improvement Agreement.

EXECUTIVE SUMMARY:

Tract 9689 is a 30 lot subdivision located on the southeast corner of the Cochrane Road and Peet Road intersection (see attached location map). The developer has completed all the conditions specified by the Planning Commission in the approval of the Tentative Maps on January 27, 2004 and May 24, 2005.

The developer has furnished the City with the necessary documents to complete the processing of the Final Map and has made provisions with a Title Company to provide the City with the required fees, insurance and bonds prior to recordation of the Final Map.

FISCAL/RESOURCE IMPACT:

Development review for this project is from development processing fees.

Agenda Item # 6

Prepared By:

Assistant Engineer

Approved By:

Public Works Director

Submitted By:

City Manager



CITY COUNCIL STAFF REPORT

MEETING DATE: April 19, 2006

GAVILAN COLLEGE USE OF THE MORGAN HILL COMMUNITY PLAYHOUSE FOR A FILM COURSE

RECOMMENDED ACTION(S):

Direct Staff to book the Morgan Hill Community Playhouse for a Gavilan College film course where revenue generated from the course will be shared between the City and Gavilan College in lieu of any rental charges for the facility.

EXECUTIVE SUMMARY:

In an effort to increase non-prime time usage at the Community Playhouse and provide increased opportunities to the community, staff recommends providing the Community Playhouse to Gavilan College for the purpose of providing a film course.

Gavilan College would like to offer its popular film course, Introduction to the Cinema, at the Morgan Hill Community Playhouse on Wednesday afternoons from 12:55 to 4:05 during the Fall 2006 semester (September 5 through December 22). Gavilan is interested in using the Playhouse as it offers a full-size projection screen that is ideal for viewing films and which is not available at their Morgan Hill facility. The course would be offered as both a credit class for enrolled students and a free non-credit class for seniors.

The current Playhouse rental rates would preclude Gavilan from holding the class at the Playhouse. Therefore, they are proposing that they and the City share the revenue generated from the course. If twenty (20) students enroll in the class, income would be \$3,657 total. Gavilan would share 50% of this amount with the City.

The benefits to Gavilan College would be the ability to offer a film course at the Morgan Hill campus that would be a positive attractor for students to the Morgan Hill site and complement the courses it already offers. In addition, the course would provide community outreach through the non-credit component; possibly bringing a group of Morgan Hill residents to the CCC who might not otherwise make use of its programming.

The benefits to the City would be a potential increase in revenue, encouraging non-prime time use of the Playhouse, promoting the recently installed projection screen, and offering additional enrichment opportunities to the community; especially seniors. In addition, it would strengthen the Playhouse's identity as a film venue for the Poppy Jasper Film Festival as the film course would serve as a natural bridge to the festival being held at the Playhouse in November.

FISCAL IMPACT:

No budget adjustment required.

Agenda Item #7

Prepared By:

(Staff Person)

Approved By:

(Department Head)

Submitted By:

City Manager



CITY COUNCIL STAFF REPORT

MEETING DATE: April 19, 2006

CITY PROMOTED ENTERTAINMENT EVENTS AT THE MORGAN HILL COMMUNITY PLAYHOUSE

RECOMMENDED ACTION(S):

Direct Staff to book entertainment events at the Morgan Hill Community Playhouse where ticket sale proceeds will be split between the City and the event promoter in lieu of any rental charges for the facility, provided that at a minimum the promoter pays the City's out of pocket costs for use of the facility for the event.

EXECUTIVE SUMMARY:

In an effort to increase non-prime time usage at the Playhouse and provide additional entertainment options to the community, staff has been working with entertainment promoters to book events into the Playhouse. Staff recommends providing the facility free of charge to entertainment promoters who wish to split the house in lieu of paying an hourly rental fee at the Playhouse when this entertainment would be beneficial to the community and the facility.

The promoters would handle the bulk of the publicity with City staff assisting in promoting the event in applicable venues. The promoter would provide on-site staff for the event with one (1) City staff in the capacity of an Event Attendant. The promoter and entertainers would adhere to all Playhouse Policies & Procedures.

An example would be a Comedy Night on a Thursday evening with a promoter booking comics for a two hour event. Tickets would be sold at the door for between \$8-\$10. A sold out performance would generate between \$1,496-\$1,870 which would be split between the promoter (and performers) and the City. With a standard City facility permit, rental revenue to the City would be approximately \$405 for the same event.

There is a potential for generating increased revenue, encouraging rentals during days and times that are currently under-booked, and providing increased entertainment options to the community.

FISCAL IMPACT:

No budget adjustment required.

Agenda Item #8

Prepared By:

(Staff Person)

Approved By:

(Department Head)

Submitted By:

City Manager



CITY COUNCIL STAFF REPORT

MEETING DATE: April 19, 2006

Agenda Item # 9

Prepared By:

Deputy City Clerk

Approved By:

City Clerk

Submitted By:

City Manager

ADOPT ORDINANCE NO. 1765, NEW SERIES

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING AN AMENDMENT TO ORDINANCE NO. 1658, NEW SERIES, TO AMEND DEVELOPMENT AGREEMENT DA-03-13 FOR APPLICATION MP 02-15: MISSION VIEW-MISSION RANCH TO ALLOW FOR THE INCORPORATION OF ONE ADDITIONAL ALLOCATION FOR FISCAL YEAR 2005-2006 (APN 728-32-008 & 009). DA-03-13: Mission View-Mission Ranch

RECOMMENDED ACTION(S):

Waive the Reading, and **Adopt** Ordinance No. 1765, New Series, and **Declare** That Said Title, Which Appears on the Public Agenda, Shall Be Determined to Have Been Read by Title and Further Reading Waived.

EXECUTIVE SUMMARY:

On April 5, 2006, the City Council Introduced Ordinance No. 1765, New Series, by the Following Roll Call Vote: AYES: Grzan, Kennedy, Sellers, Tate; NOES: None; ABSTAIN: None; ABSENT: Carr.

FISCAL IMPACT:

No budget adjustment required.

ORDINANCE NO. 1765, NEW SERIES

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING AN AMENDMENT TO ORDINANCE NO. 1658, NEW SERIES, TO AMEND DEVELOPMENT AGREEMENT DA-03-13 FOR APPLICATION MP 02-15: MISSION VIEW-MISSION RANCH TO ALLOW FOR THE INCORPORATION OF ONE ADDITIONAL ALLOCATION FOR FISCAL YEAR 2005-2006 (APN 728-32-008 & 009). DA-03-13: Mission View-Mission Ranch

THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. The City Council has adopted Resolution No. 4028 establishing a procedure for processing Development Agreements for projects receiving allotments through the Residential Development Control System, Title 18, Chapter 18.78 of the Municipal Code.

SECTION 2. The California Government Code Sections 65864 thru 65869.5 authorizes the City of Morgan Hill to enter into binding Development Agreements with persons having legal or equitable interests in real property for the development of such property.

SECTION 3. The Planning Commission, on November 29, 2005, pursuant to Resolution 05-73, awarded 1 building allotment for application MP 02-15: Mission View Dr.-Mission Ranch and four building allotments for fiscal year 2006-07 to application MP 04-26: Mission View Dr.-Mission Ranch; and

SECTION 4. The City Council hereby finds that the development agreement amendment approved by this ordinance is compatible with the goals, objectives, policies, and land uses designated by the General Plan of the City of Morgan Hill.

SECTION 5. The City Council hereby finds that the development agreement amendment is necessary to incorporate the one additional building allocations awarded to the project after the adoption of the original development agreement under ordinance 1658.

SECTION 6. Severability. If any part of this Ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or the applicability of this Ordinance to other situations.

SECTION 7. Effective Date Publication. This ordinance shall take effect from and after thirty (30) days after the date of its adoption. The City Clerk is hereby directed to publish this ordinance pursuant to §36933 of the Government Code.

SECTION 8. References are hereby made to certain Agreements on file in the office of the City Clerk of the City of Morgan Hill. These documents to be signed by the City of Morgan Hill and the property owner set forth in detail and development schedule, the types of homes, and the specific restrictions on the development of the subject property. Said Agreement herein above referred to shall be binding on all future owners and developers as well as the present owners of the lands, and any substantial change can be made only after further public hearings before the Planning Commission and the City Council of this City. The amended agreement shall replace the development agreement approved under Ordinance No 1658.

The foregoing ordinance was introduced at the regular meeting of the City Council of the City of Morgan Hill held on the 5th Day of April 2006, and was finally adopted at a regular meeting of said Council on the Day of April 2006, and said ordinance was duly passed and adopted in accordance with law by the following vote:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:

ATTEST:

APPROVED:

Irma Torrez, City Clerk

Dennis Kennedy, Mayor

∞ CERTIFICATE OF THE CITY CLERK ∞

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Ordinance No. 1765, New Series, adopted by the City Council of the City of Morgan Hill, California at their regular meeting held on the Day of April 2006.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

IRMA TORREZ, City Clerk

AMENDED DEVELOPMENT SCHEDULE FOR MP 02-15
EXHIBIT "B"

DEVELOPMENT SCHEDULE MP-02-15: Mission View-Mission Ranch
FY 2004-05, 21 allocations. FY 2005-06, 27 28 allocations. FY 2006-07, 12 allocations

I. SUBDIVISION AND ZONING APPLICATIONS	
Applications Filed:	11-12-03
II. SITE REVIEW APPLICATION	
Application Filed:	03-31-04
III. FINAL MAP SUBMITTAL	
Map, Improvements Agreement and Bonds:	04-30-04
IV. BUILDING PERMIT SUBMITTAL	
Submit plans to Building Division for plan check:	
FY 2004-05 (21 units)	06-30-04
FY 2005-06 (27 28 units)	06-30-05
FY 2006-07 (12 units)	06-30-06
V. BUILDING PERMITS	
Obtain Building Permits:	
FY 2004-05 (11 units)	11-30-04
FY 2004-05 (10 units)	01-30-05
FY 2005-06 (27 28 units)	09-30-05
FY 2006-07 (12 units)	09-30-06
Commence Construction:	
FY 2004-05 (21 units)	06-30-05
FY 2005-06 (27 28 units)	06-30-06
FY 2006-07 (12 units)	06-30-07

Failure to obtain building permits and commence construction by the dates listed above shall result in the loss of building allocations. Submitting a Final Map Application or a Building Permit six (6) or more months beyond the filing dates listed above shall result in the applicant being charged a processing fee equal to double the building permit plan check fee and/or double the map checking fee to recoup the additional costs incurred in processing the applications within the required time limits. Additionally, failure to meet the Final Map Submittal and Building Permit Submittal deadlines listed above may result in loss of building allocations. In such event, the property owner must re-apply under the development allotment process outlined in Section 18.78.090 of the Municipal Code if development is still desired.

An exception to the loss of allocation may be granted by the City Council if the cause for the lack of commencement was the City's failure to grant a building permit for the project due to an emergency situation as defined in Section 18.78.140 or extended delays in environmental reviews, permit delays not the result of developer inactions, or allocation appeals processing.

If a portion of the project has been completed (physical commencement on at least 30 dwelling units and lot improvements have been installed according to the plans and specifications), the property owner may submit an application for reallocation of allotments. Distribution of new building allocations for partially completed project shall be subject to the policies and procedures in place at the time the reallocation is requested.



CITY COUNCIL STAFF REPORT

MEETING DATE: April 19, 2006

Agenda Item # 10

Prepared By:

Deputy City Clerk

Approved By:

City Clerk

Submitted By:

City Manager

ADOPT ORDINANCE NO. 1766, NEW SERIES

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING AN AMENDMENT TO ORDINANCE NO. 1726, NEW SERIES, TO AMEND DEVELOPMENT AGREEMENT DA-05-01 FOR APPLICATION MP 04-26: MISSION VIEW-MISSION RANCH TO ALLOW FOR THE INCORPORATION OF FOUR ADDITIONAL ALLOCATIONS FOR FISCAL 2006-07 AND AMENDMENT TO PARAGRAPH 14 MODIFYING THE PER UNIT PUBLIC IMPROVEMENT COMMITMENT. (APN 728-32-008 & 009) DAA-05-01: Mission Ranch

RECOMMENDED ACTION(S):

Waive the Reading, and **Adopt** Ordinance No. 1766, New Series, and **Declare** That Said Title, Which Appears on the Public Agenda, Shall Be Determined to Have Been Read by Title and Further Reading Waived.

EXECUTIVE SUMMARY:

On April 5, 2006, the City Council Introduced Ordinance No. 1766, New Series, by the Following Roll Call Vote: AYES: Grzan, Kennedy, Sellers, Tate; NOES: None; ABSTAIN: None; ABSENT: Carr.

FISCAL IMPACT:

No budget adjustment required.

ORDINANCE NO. 1766, NEW SERIES

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING AN AMENDMENT TO ORDINANCE NO. 1726, NEW SERIES, TO AMEND DEVELOPMENT AGREEMENT DA-05-01 FOR APPLICATION MP 04-26: MISSION VIEW-MISSION RANCH TO ALLOW FOR THE INCORPORATION OF FOUR ADDITIONAL ALLOCATIONS FOR FISCAL 2006-07 AND AMENDMENT TO PARAGRAPH 14 MODIFYING THE PER UNIT PUBLIC IMPROVEMENT COMMITMENT. (APN 728-32-008 & 009) DAA-05-01: Mission Ranch

THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. The City Council has adopted Resolution No. 4028 establishing a procedure for processing Development Agreements for projects receiving allotments through the Residential Development Control System, Title 18, Chapter 18.78 of the Municipal Code.

SECTION 2. The California Government Code Sections 65864 thru 65869.5 authorizes the City of Morgan Hill to enter into binding Development Agreements with persons having legal or equitable interests in real property for the development of such property.

SECTION 3. The Planning Commission, on November 29, 2005, pursuant to Resolution 05-73, awarded four building allotments for fiscal year 2006-07 to application MP 04-26: Mission View Dr.-Mission Ranch; and

SECTION 4. The City Council hereby finds that the development agreement amendment approved by this ordinance is compatible with the goals, objectives, policies, and land uses designated by the General Plan of the City of Morgan Hill.

SECTION 5. The City Council hereby finds that the development agreement amendment is necessary to incorporate four additional building allocations awarded to the project and correct the per unit amount committed for public improvements after the adoption of the original development agreement under ordinance 1726.

SECTION 6. Severability. If any part of this Ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or the applicability of this Ordinance to other situations.

SECTION 7. Effective Date Publication. This ordinance shall take effect from and after thirty (30) days after the date of its adoption. The City Clerk is hereby directed to publish this ordinance pursuant to §36933 of the Government Code.

SECTION 8. References are hereby made to certain Agreements on file in the office of the City Clerk of the City of Morgan Hill. These documents to be signed by the City of Morgan Hill and the property owner set forth in detail and development schedule, the types of homes, and the specific restrictions on the development of the subject property. Said Agreement herein above referred to shall be binding on all future owners and developers as well as the present owners of the lands, and

any substantial change can be made only after further public hearings before the Planning Commission and the City Council of this City. The amended agreement shall replace the development agreement approved under Ordinance No 1726.

The foregoing ordinance was introduced at the regular meeting of the City Council of the City of Morgan Hill held on the 5th Day of April 2006, and was finally adopted at a regular meeting of said Council on the Day of April 2006, and said ordinance was duly passed and adopted in accordance with law by the following vote:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:

ATTEST:

APPROVED:

Irma Torrez, City Clerk

Dennis Kennedy, Mayor

∞ CERTIFICATE OF THE CITY CLERK ∞

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Ordinance No. 1766, New Series, adopted by the City Council of the City of Morgan Hill, California at their regular meeting held on the Day of April 2006.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

IRMA TORREZ, City Clerk

**AMENDED DEVELOPMENT SCHEDULE FOR MP 04-26
EXHIBIT "B
DEVELOPMENT SCHEDULE MP-04-26: Cochrane-Mission Ranch
FY 2006-07 ~~18~~ 22 allocations/FY 2007-08 15 allocations/FY 2008-09 15 allocations**

I.	SUBDIVISION APPLICATION	
	Application Filed:	3-25-05
II.	SITE REVIEW APPLICATION	
	Application Filed:	07-30-05
III.	FINAL MAP SUBMITTAL	
	Map, Improvements Agreement and Bonds:	
	FY 2006-07 (18 22 units)	07-30-06
	FY 2007-08 (15 units)	07-30-07
	FY 2008-09 (15 units)	07-30-08
IV.	BUILDING PERMIT SUBMITTAL	
	Submit plans to Building Division for plan check:	
	FY 2006-07 (18 22 units)	08-15-06
	FY 2007-08 (15 units)	08-15-07
	FY 2008-09 (15 units)	08-15-08
V.	BUILDING PERMITS	
	Obtain Building Permits:	
	FY 2006-07 (18 22 units)	09-30-06
	FY 2007-08 (15 units)	09-30-07
	FY 2008-09 (15 units)	09-30-08
	Commence Construction:	
	FY 2006-07 (18 22 units)	06-30-07
	FY 2007-08 (15 units)	06-30-08
	FY 2008-09 (15 units)	06-30-09

Failure to obtain building permits and commence construction by the dates listed above, shall result in the loss of building allocations. Submitting a Final Map Application or a Building Permit six (6) or more months beyond the filing dates listed above shall result in the applicant being charged a processing fee equal to double the building permit plan check fee and/or double the map checking fee to recoup the additional costs incurred in processing the applications within the required time limits. Additionally, failure to meet the Final Map Submittal and Building Permit Submittal deadlines listed above may result in loss of building allocations. In such event, the property owner must re-apply under the development allotment process outlined in Section 18.78.090 of the Municipal Code if development is still desired.

An exception to the loss of allocation may be granted by the City Council if the cause for the lack of commencement was the City's failure to grant a building permit for the project due to an emergency situation as defined in Section 18.78.140 or extended delays in environmental reviews, permit delays not the result of developer inactions, or allocation appeals processing.

If a portion of the project has been completed (physical commencement on at least 24 dwelling units and lot improvements have been installed according to the plans and specifications), the property owner may submit an application for reallocation of allotments. Distribution of new building allocations for partially completed project shall be subject to the policies and procedures in place at the time the reallocation is requested.



REDEVELOPMENT AGENCY STAFF REPORT

MEETING DATE: April 19, 2006

THIRD QUARTER REPORT FROM THE CHAMBER OF COMMERCE ECONOMIC DEVELOPMENT PARTNERSHIP

Agenda Item #11

Prepared By:

BAHS Director

Submitted By:

Executive Director

RECOMMENDED ACTION(S): Accept the report.

EXECUTIVE SUMMARY:

On August 3, 2005, the Agency approved an agreement with the Chamber of Commerce (Chamber) to provide economic development services per its Economic Development Marketing Plan (Plan).

The key services under the FY05-06 Plan are as follows:

- Implement business retention and attraction programs
- Implement marketing /advertising strategy
- Develop and implement advertising campaign such as the “Shop in Morgan Hill” campaign
- Prepare and maintain marketing materials
- Plan and coordinate economic development related events (e.g., “business appreciation lunch”)
- Maintain real estate property database on website
- Coordinate activities with the Morgan Hill Downtown Association
- Work with the tourism advisory committee and market/advertise special events

The Chamber provides quarterly reports on their activities under the Plan. Attached is the Chamber’s third quarter report. Also attached is the revised First Quarter Report in response to the Council’s request for the report to include the cost breakdown for activities. The Council received the second quarter report in February 2006.

FISCAL IMPACT: The Agency has an agreement for \$125,000 with the Morgan Hill Chamber of Commerce to provide supplemental economic development activities. To date, we have reimbursed the Chamber about \$90,000 for services.

**CITY OF MORGAN HILL
JOINT SPECIAL AND REGULAR CITY COUNCIL
AND REGULAR REDEVELOPMENT AGENCY MEETING
MINUTES – APRIL 5, 2006**

CALL TO ORDER

Mayor/Chairman Kennedy called the special meeting to order at 6:00 p.m.

ROLL CALL ATTENDANCE

Present: Council/Agency Members Grzan, Sellers, Tate and Mayor/Chairman Kennedy
Late: Council/Agency Member Carr

DECLARATION OF POSTING OF AGENDA

City Clerk/Agency Secretary Torrez certified that the meeting's agenda was duly noticed and posted in accordance with Government Code 54954.2.

City Council and Redevelopment Agency Action

CLOSED SESSIONS:

City Attorney/Agency Counsel Kern announced the below listed closed session items.

1.

CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION:

Authority: Pursuant to Government Code 54956.9(a)
Case Name: Tichinin v. City of Morgan Hill
Case Number: Santa Clara County Superior Court, Case No. 1-05-CV-046112
Attendees: City Manager; City Attorney; Special Counsel Timothy J. Schmal

2.

CONFERENCE WITH LABOR NEGOTIATOR:

Authority: Government Code Section 54957.6
Agency Negotiators: City Manager; Human Resources Director
Employee Organizations: Morgan Hill Police Officers Association
Employees Covered under Management Resolution #5872, as amended

3.

CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION

Authority: Government Code Section 54956.9(a)
Case Name: General Lighting Service, Inc. v. Wells Construction Group, et al. [Consolidated Actions]
Case Number: Santa Clara County Superior Court, Lead Case No. 1-04-CV-025561
Attendees: City Manager; City Attorney

4.

CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION

Authority: Government Code Section 54956.9(a)
Case Name: Berkman v. City of Morgan Hill et al.

Case Number:
Attendees:

Santa Clara County Superior Court, 1-04-CV-031021
City Manager; City Attorney

OPPORTUNITY FOR PUBLIC COMMENT

Mayor/Chairman Kennedy opened the Closed Session items to public comment. No comments were offered.

ADJOURN TO CLOSED SESSION

Mayor/Chairman Kennedy adjourned the meeting to Closed Session at 6:03 p.m.

RECONVENE

Mayor/Chairman Kennedy reconvened the meeting at 7:04 p.m.

CLOSED SESSION ANNOUNCEMENT

City Attorney/Agency Counsel Kern announced that no reportable action was taken in closed session.

SILENT INVOCATION

PLEDGE OF ALLEGIANCE

At the invitation of Mayor/Chairman Kennedy, Police Sergeant Jerry Neumayer led the Pledge of Allegiance.

PROCLAMATIONS

Mayor Kennedy presented Mr. Lynn Liebscutz with a proclamation declaring April 2006 as *Grange Month*.

Mayor Kennedy presented Amy Molica, Community Solutions, with a proclamation declaring April 2006 as *Sexual Assault Awareness Month*.

PRESENTATIONS

Mayor Kennedy presented a Certificate of Appreciation to Robert Ruge for his generous donation of \$5,000 to the Library Building Project for the new Morgan Hill Library.

David Cohen, President of the Community Law Enforcement Foundation of Morgan Hill, announced the formation of the Foundation which reconstitutes a group that has been dormant for several years. He stated the purpose of the Foundation is to support and promote public safety through partnerships that will provide resources to help the Morgan Hill Police Department perform at its highest level of service.

to the community. He indicated that the Foundation will raise money to see that the Police Department has all the tools and training it needs to be affective and better serve the City and its citizens.

CITY COUNCIL REPORT

No reports presented this evening.

CITY MANAGER REPORT

A report was not presented this evening.

CITY ATTORNEY REPORT

A report was not presented this evening.

OTHER REPORTS

None.

PUBLIC COMMENT

Mayor/Chairman Kennedy opened the floor to public comments for items not appearing on this evening's agenda.

Brian Schmidt, Committee for Green Foothills, announced that the Open Space/Land Conservation Initiative is being circulated in the County in order to reduce the number of subdivisions that can occur in certain parts of the unincorporated County areas. He indicated that a number of environmental groups in the County are in support of the initiative, and that it was his hope that it receives support from Council members and the City, as a whole. He clarified that the initiative does not affect City incorporated areas or any lands incorporated into the City as a result of the urban limit line. He requested he be allowed to address the Council under Consent Calendar Item 5.

No further comments were offered.

Mayor Kennedy discussed the order of the agenda. He noted that there are several individuals in attendance on various issues and that there have been requests to move items forward. He recommended the Council address the library issue early in the agenda; and move item 22, the Solid Waste Management program, to public hearing.

City Council Action

CONSENT CALENDAR:

Mayor Kennedy noted Mr. Schmidt made a request to address the Council on Consent Calendar item 5.

Mayor Pro Tempore Grzan supported pulling item 5 as well as item 11 from the Consent Calendar.

Action: *On a motion by Council Member Tate and seconded by Council Member Sellers, the City Council, on a 4-0 vote with Council Member Carr absent, **Approved** Consent Calendar Items 1-4, 6-10, and 12-13, as follows:*

1. **AMENDMENT TO ANNUAL CONTRACT WITH MONTEREY COUNTY LABORATORY FOR WATER SAMPLING AND ANALYSIS**

Action: 1) **Approved** the Amendment to the Agreement with Monterey County Laboratory Dated 2004 to Increase the Maximum Compensation from \$244,000 to \$314,000; and 2) **Approved** the Appropriation of \$70,000 from the Unappropriated Water Fund Balance (650) to Fund Perchlorate Testing and EPA Water Quality Testing.

2. **REIMBURSEMENT FOR WATER MAIN INSTALLATION BY MARRAD GROUP, INC. (TRACT 9586)**

Action: **Authorized** the Reimbursement of \$145,585 for Installation of a 16-Inch Water Main by Marrad Group, Inc.

3. **AWARD OF SECOND STREET WATER MAIN REPLACEMENT PROJECT**

Action: 1) **Awarded** Contract to Monterey Peninsula Engineering, Inc. for the Construction of the Second Street Water Main Replacement Project in the Amount of \$164,375; and 2) **Authorized** Expenditure of Construction Contingency Funds, Not to Exceed \$16,438.

4. **FINAL MAP APPROVAL JASPER PARK PHASE II (TRACT 9772)**

Action: 1) **Approved** the Final Map; and 2) **Authorized** the Recordation of the Map Following Recordation of the Development Improvement Agreement.

6. **CAPSTONE COMMUNITY CONVERSATION**

Action: 1) **Authorized** the City Manager to Execute an Agreement with ViewPoint Learning to Provide Public Engagement Services in Connection with the April 29, 2006 Capstone Community Conversation; Subject to Review and Approval by the City Attorney; and 2) **Increased** Appropriations in the Community Promotions Budget within the General Fund by \$10,000.

7. **CONTRACT WITH DAVID J. POWERS & ASSOCIATES FOR ENVIRONMENTAL CONSULTING SERVICES**

Action: **Authorized** the City Manager to Execute the Agreement; Subject to Review and Approval by the City Attorney.

8. **APPROVE PURCHASE ORDER FOR Data911 MOBILE COMPUTER SYSTEMS**

Action: 1) **Authorized** the City Manager to Approve a Purchase Order Totalling \$45,530.55 with Data911 for New Mobile Computer Systems; 2) **Awarded** the total Project Cost of \$104,069.82, and **Authorized** the City Manager to Execute a Three-Year Agreement with Data911 for the Purchase of These Computer Systems; Subject to Review and Approval by the

City Attorney; and 3) **Approved** a Budgetary Increase of \$13,008.73 in the Police Donation Fund.

9. **PURCHASE OF POLICE DEPARTMENT MULTI-SERVICES OFFICER (MSO)/PRISONER TRANSPORT VEHICLE**

Action: **Authorized** the City Manager to Approve the Purchase Order for a Police Transport Van through Downtown Ford for a Total Amount of \$22,560.

10. **ACCEPTANCE OF DONATION FROM W. ROBERT RUGE FOR THE LIBRARY BUILDING PROJECT**

Action: **Accepted** Monetary Donation of \$5,000 from W. Robert Ruge for the Library Building Project.

12. **ADOPT ORDINANCE NO. 1763, NEW SERIES**

Action: **Waived** the Reading, and **Adopted** Ordinance No. 1763, New Series, and **Declared** That Said Title, Which Appears on the Public Agenda, Shall be Determined to Have Been Read by Title and Further Reading Waived; Title as Follows: **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING AN AMENDMENT TO THE MORGAN HILL MUNICIPAL CODE, SECTION 18.56.150 MINOR EXCEPTIONS TO ALLOW MINOR ADDITIONS WHILE MAINTAINING EXISTING NON-CONFORMING HEIGHTS (ZA-05-28: OAKHILL-SPERA).**

13. **ADOPT ORDINANCE NO. 1764, NEW SERIES**

Action: **Waived** the Reading, and **Adopted** Ordinance No. 1764, New Series, and **Declared** That Said Title, Which Appears on the Public Agenda, Shall be Determined to Have Been Read by Title and Further Reading Waived; Title as Follows: **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING A PRECISE DEVELOPMENT PLAN AND PUD GUIDELINES FOR A PLANNED UNIT DEVELOPMENT LOCATED AT THE NORTHWEST CORNER OF COCHRANE ROAD AND MADRONE PARKWAY (APN 726-33-028) (ZAA-04-11: COCHRANE-TBI).**

5. **STATUS REPORT REGARDING IMPLEMENTATION OF THE INSTITUTE GOLF COURSE MITIGATION MONITORING AND REPORTING PLAN (MMRP)**

Director of Community Development Molloy Previsich indicated that the Council requested a status report on the compliance activities of the Institute Golf Course with its Mitigation Monitoring and Reporting Plan (MMRP). She stated that the material presented to the Council has been compiled by Pacific Municipal Consultants (PMC) who are under contract with the City to be an extension of city staff to monitor compliance and review work products submitted to the City by the applicant. She said that a staff report prepared by the applicant's new team of consultants provides the status on what they have done as well as their action plan for coordinating the completion of the remaining activities. She presented a background on the land use entitlement for the Institute Golf Course property, including the adoption of the MMRP. She informed the Council that compliance activities did not begin until May 2005 as it took time to work with the property owner/applicant to select a consultant, and to agree upon an approach on how the compliance activities would be reviewed and monitored by the City. She stated

that progress has been made, but not on the timeline that was originally anticipated by the MMRP. She indicated that two groundwater monitoring wells have been installed with a third well to be installed as soon as the rain stops. Surface quality reports have been submitted, and groundwater quality and supply reports are in the process of being completed (to be completed by summer 2006). The nitrogen control plan and the chemical application management plan have been submitted. The City, Santa Clara Valley Water District, and the Regional Water Quality Control Board are reviewing these documents, with review being due this month in order to allow the Regional Water Quality Control Board to approve the MPDS permits. The storm water pollution plan has been approved. The geotechnical report and the drainage analysis are being worked on and should be completed by the end of this month. The riparian re-vegetation and document should be completed by summer 2006.

Ms. Molloy Previsich indicated that the Council approved the rezoning, mitigation measure and the mitigation monitoring plan in August 2004. The site development and grading plan permit still needs to be approved. Once approved, it will complete permitting for the golf course. She informed the Council that Michael McCormick, PMC, was in attendance and could answer questions on the status table. Also, in attendance were Stephanie Strelow, Jeff Nolan, and Peter Hasse, representing the applicant. These individuals are the technical professionals responsible for engineering, hydrology, and project management activities.

Mayor Pro Tempore Grzan inquired whether a date (timeline) can be identified for some of the mitigation measures in order to complete them.

Ms. Molloy Previsich indicated that some of the mitigation measures have expected dates. She felt the original dates identified in the MMRP were overly optimistic. She said that it takes time to hire qualified consultants and that information needs to be prepared and reviewed by staff, regional agencies, and the applicant; including coordination in the approach to the study. She noted that timelines were not included in the mitigation measures contained in the EIR, but were set forth and adopted as part of the adopted MMRP. Therefore, these mitigation measures are under the City's control. She said that there was a delay in getting started due to a new consultant team coming on board; going through a learning curve, on the applicant's side. She indicated that this is a complicated process and that it requires a lot of coordination with other agencies and consultants. She felt it would be difficult to establish hard due dates. She said staff has a good working relationship with agencies and the applicant's consultants, and that everyone is making substantial good faith progress toward completion. It was her belief that a site development and grading plan can be completed by summer 2006, and reviewed and approved by all agencies by fall 2006.

Mayor Pro Tempore Grzan expressed concern that the Army Corp of Engineers will not be able to visit the site to make a determination whether wetlands are being impacted due to the lack of staffing at that agency.

Ms. Molloy Previsich said that it was her understanding that the Army Corp of Engineers does not have an urgent need to make a site visit at this time. Once the riparian restoration plan is defined and the City and the Army Corp of Engineers can determine whether wetlands will be impacted, they will come out and make a determination.

Mayor Pro Tempore Grzan indicated that mitigation measures require monthly reports from the applicant; noting that this requirement has not been satisfied as some of the reports have been periodic and sporadic. He inquired how the City can ensure that the reports requested come to the Council on a monthly basis.

Ms. Molloy Previsich noted that the applicant has changed personnel. She indicated that another group meeting of the agencies was held a few weeks ago and had the appropriate professionals, on the applicant's side, their groundskeeper and the individuals conducting the water quality testing in attendance. At the meeting, it was emphasized that monthly reports were needed. The agencies have gotten together and made it clear to the applicant and their personnel that monthly reports are needed until it is determined that monthly reports are no longer needed; being submitted quarterly. The recourse for non compliance would be code enforcement with an ultimate revocation of zoning and non approval of permit requests. She said that with any code enforcement action, you gage whether there is substantial good faith progress being made.

Mayor Kennedy opened the floor to public comment.

Brian Schmidt, Committee for Green Foothills, stated that it was his understanding that the applicant did not believe they were responsible for monitoring costs, and they insisted on this belief for a significant amount of time. He stated that monitoring costs are part of the applicant's responsibility. He noted that staff indicates that a change in team was another reason for delay. He did not believe this to be an acceptable excuse. He noted the City staff report states that the taxing of the actual mitigation measures contained in the EIR generally do not include specific due dates. He noted that the MMRP included timing sessions and is a part of the EIR. He stated that enforcement would result in not allowing the applicant to proceed due to lack of compliance. He requested that there be a discussion of the groundwater supply and whether it was adequate. He noted that this was a matter discussed extensively in the EIR 1½ years ago. He said that a mitigation measure stated that a study on the groundwater supply would be performed in summer 2005; noting that this has not been done. He requested clarification whether the study would proceed this summer rather than now or in the spring, before the applicant conducts a study on actual usage, as this would be helpful. He referred to the action plan attached to the staff report, mitigation number 3, and the groundwater supply investigation. The second bullet point states that additional analyses were provided to the consultant in December 2005. The results indicate there were no long term impacts on regional water level. He inquired how this statement can be realized when the study has not been conducted. He referred to a note that states the U.S. Fish and Wildlife's letter dated September 30, 2005 indicates that consultation is not required for the offsite mitigation. It was not clear to him whether the Fish and Wildlife Service was aware that the offsite mitigation approved in fall 2004 has not yet been met. He did not know the status of acquiring the offsite mitigation, noting that the applicant is behind.

No further comments were offered.

Stephanie Strelow, Strelow Consulting, project manager, informed the Council that she was hired by Fry's Electronics to serve as the project manager in getting the mitigation measures implemented. She indicated that she has been on board since the middle of November 2005. In late December/early January, she was provided with a study prepared by the previous consulting team. She reviewed this

study and found information regarding groundwater supply impacts on the regional aquifer. She presented this information to the Santa Clara Valley Water District and the City at a meeting held a couple of weeks ago to discuss whether or not they should move forward with the model being reviewed. She has received this information and will be putting together a more detailed scope of work; incorporating some of the information. It was her understanding there were a couple of sites reviewed by the prior consulting team approximately a year ago and that these sites were not available. She has been in touch with Mary Hammer with the Fish & Wildlife Service and City staff. She said that she needs to investigate whether there are any other available sites for serpentine habitat. It is her hope to get all the other studies underway so that the project can complete the site development and grading plan.

Jeff Nolan, Nolan Associates, applicant's hydrologist, addressed whether the groundwater study will look at winter or summer conditions. He said that he has not reviewed the entire scope of services yet, but that they will be putting together some type of modeling, independent of the season. He stated that it does not matter when the actual work is done. He will have monitoring data for both winter and summer water levels and that this data will be used for the model. The model will allow simulation on any particular condition (e.g., dry year conditions as well as wet year conditions).

Action: **Information** Only, No Action Required.

11. SOUTH VALLEY CIVIC THEATRE LEASE RENEWAL OF THE MORGAN HILL COMMUNITY PLAYHOUSE

Mayor Pro Tempore Grzan requested a staff report.

Interim Recreation & Community Services Manager Cooper informed the Council that the Playhouse contract renewal is a positive thing as the City has a good tenant in the South Valley Civic Theatre group. He announced that more money will be paid than the first three years of rental. He said that things are going well at the Playhouse and that staff member Karen Lengsfeld is responsible for this.

Mayor Pro Tempore Grzan inquired whether staff was tracking attendance to performances.

Karen Lengsfeld responded that staff tracked attendance the first three years of the contract as South Valley Theatre paid the City an amount over a certain amount of tickets sold. She indicated that attendance was good for some shows, while not so good for others. It was her belief that approximately 50% of the time, South Valley Theatre sold over the number of tickets set out in the contract, and that the City received a percentage of the balance of tickets sold. She clarified that the new agreement does not require South Valley Theatre to provide the City with ticket proceeds after selling a certain amount of tickets. This was left out of the new agreement because it was difficult to monitor. She indicated that South Valley Theatre is not the exclusive user of the Playhouse, and that there are other users. She stated that the City has received over \$100,000 in revenue in the last three years.

Mayor Pro Tempore Grzan requested that staff return to the Council with attendance numbers on an annual basis; in terms of how well the Playhouse is doing.

Council Member Sellers said that he had some one who was interested in using the Playhouse in the

summer for an extended period of time. He was pleased to hear that this agreement is not an exclusive use.

Mayor Kennedy opened the floor to public comment. No comments were offered.

Action: *On a motion by Council Member Tate and seconded by Council Member Sellers, the City Council, on a 4-0 vote with Council Member Carr absent, **Approved** the Lease Agreement Renewal with South Valley Civic Theatre (SVCT) for the use of the Morgan Hill Community Playhouse; and 2) **Authorized** the City Manager to Execute the Lease Agreement Renewal, Subject to Review and Approval by the City Attorney; and do whatever is Necessary to Effectuate the Agreement.*

Redevelopment Agency Action

CONSENT CALENDAR:

Action: *On a motion by Agency Member Tate and seconded by Agency Member Sellers, the Agency Board, on a 4-0 vote with Agency Member Carr absent, **Approved** Consent Calendar Item 14, as follows:*

14. REVISION TO FACADE IMPROVEMENT PROGRAM

Action: ***Authorized** the Executive Director to Modify the Façade Improvement Program to Include Older Commercial and Industrial Buildings.*

City Council and Redevelopment Agency Action

CONSENT CALENDAR:

Council/Agency Member Tate requested that item 15 be pulled from the agenda as he would be abstaining from voting on this item.

Action: *On a motion by Council/Agency Member Sellers and seconded by Mayor Pro Tempore/Vice-chair Grzan, the City Council/Agency Board, on a 3-0-1 vote with Council/Agency Member Tate abstaining and Council/Agency Member Carr absent, **Approved** Consent Calendar Item 15, as follows:*

15. JOINT REDEVELOPMENT AGENCY REGULAR AND CITY COUNCIL SPECIAL MEETING MINUTES OF MARCH 22, 2006

Action: ***Approved** as submitted.*

City Council Action

PUBLIC HEARINGS:

16. DEVELOPMENT AGREEMENT AMENDMENT APPLICATIONS DA-03-13 AND DA-05-01: MISSION VIEW DRIVE-MISSION RANCH – Ordinance Nos. 1765 & 1766, New Series

Director of Community Development Molloy Previsich presented the staff report on a request to amend two development agreements associated with the Mission Ranch project located on the southeast corner of Cochrane Road and Mission View Drive. The amendment is being requested because five allotments were redistributed from another project that was not performing to these projects. She indicated that application DA-03-13 will receive one additional allocation, and DA-05-01 will receive four additional allocations.

Mayor Kennedy opened the public hearing. No comments being offered, the public hearing was closed.

Action: *On a motion by Council Member Tate and seconded by Council Member Sellers, the City Council, on a 4-0 vote with Council Member Carr absent, **Waived** the reading in Full of Ordinance No. 1765, New Series, Amending Development Agreement DA-03-13.*

Action: *On a motion by Council Member Tate and seconded by Council Member Sellers, the City Council **Introduced** Ordinance No. 1765, by Title only as follows: **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING AN AMENDMENT TO ORDINANCE NO. 1658, NEW SERIES, TO AMEND DEVELOPMENT AGREEMENT DA-03-13 FOR APPLICATION MP 02-15: MISSION VIEW-MISSION RANCH TO ALLOW FOR THE INCORPORATION OF ONE ADDITIONAL ALLOCATION FOR FISCAL YEAR 2005-2006 (APN 728-32-008 & 009). DA-03-13: Mission View-Mission Ranch**, by the following roll call vote: AYES: Grzan, Kennedy, Sellers, Tate; NOES: None; ABSTAIN: None; ABSENT: Carr.*

Action: *On a motion by Council Member Tate and seconded by Council Member Sellers, the City Council, on a 4-0 vote with Council Member Carr absent, **Waived** the reading in Full of Ordinance No. 1766, New Series, Amending Development Agreement DA-05-01.*

Action: *On a motion by Council Member Tate and seconded by Council Member Sellers, the City Council **Introduced** Ordinance No. 1766, New Series, by Title only as follows: **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING AN AMENDMENT TO ORDINANCE NO. 1726, NEW SERIES, TO AMEND DEVELOPMENT AGREEMENT DA-05-01 FOR APPLICATION MP 04-26: MISSION VIEW-MISSION RANCH TO ALLOW FOR THE INCORPORATION OF FOUR ADDITIONAL ALLOCATIONS FOR FISCAL 2006-07 AND AMENDMENT TO PARAGRAPH 14 MODIFYING THE PER UNIT PUBLIC IMPROVEMENT COMMITMENT (APN 728-32-008 & 009) DAA-05-01: Mission Ranch**, by the following roll call vote: AYES: Grzan, Kennedy, Sellers, Tate; NOES: None; ABSTAIN: None; ABSENT: Carr.*

17. VACATION OF A PORTION OF TAYLOR AVENUE – Resolution No. 5990

Director of Public Works Ashcraft informed the Council that Taylor Avenue, north of Peebles Avenue has been a dead end street for many years and that this is a house cleaning item to vacate the end of the public street.

Mayor Kennedy opened the public hearing. No comments being offered, the public hearing was closed.

Action: *On a motion by Council Member Tate and seconded by Council Member Sellers, the City Council, on a 4-0 vote with Council Member Carr absent, **Adopted** Resolution No. 5990, Vacating a Portion of Taylor Avenue.*

Action: *On a motion by Council Member Tate and seconded by Council Member Sellers, the City Council, on a 4-0 vote with Council Member Carr absent, **Authorized** the City Manager to Sign Quitclaim Deeds on Behalf of the City.*

Action: *On a motion by Council Member Tate and seconded by Council Member Sellers, the City Council, on a 4-0 vote with Council Member Carr absent, **Directed** the City Clerk to File Copies of the Quitclaim Deeds in the Office of the Santa Clara County Recorder.*

Action: *On a motion by Council Member Tate and seconded by Council Member Sellers, the City Council, on a 4-0 vote with Council Member Carr absent, **Directed** the City Clerk to File a Certified Copy of the Resolution in the Office of the Santa Clara County Recorder.*

22. SOLID WASTE MANAGEMENT RATE ADJUSTMENT – Resolution No. 5991

Program Manager Eulo indicated that once a year, South Valley Refuse and Disposal Company is entitled to apply to the City to have the cap raised they can charge customers. He stated that the franchise agreement defines the formula that dictates the increase in the cap based on the changes in the Consumer Price Index at a rate of 80%. South Valley Refuse Disposal Company has submitted a timely application this year. He noted that the rate adjustment for the basic residential service will increase by 49 cents per month and will go up to \$22.31.

Mayor Pro Tempore Grzan indicated that the Utilities and Environment Committee reviewed the request for a rate increase and found the request to be in compliance. Therefore, the Committee is recommending Council approval of the rate increase.

Mayor Kennedy opened the public hearing. No comments being offered, the public hearing was closed.

Action: *On a motion by Council Member Tate and seconded by Council Member Grzan, the City Council, on a 4-0 vote with Council Member Carr absent, **Adopted** Resolution No. 5991.*

City Council Action

OTHER BUSINESS

23. AWARD CONTRACTS FOR CONSTRUCTION OF NEW LIBRARY AND APPROVE CONSULTANT AGREEMENTS AND AMENDMENT FOR PROFESSIONAL SERVICES – Resolution No. 5992

Deputy Director of Public Works Bjarke presented the staff report on the recommendation to award construction contracts for the new library. He stated that at the Council's direction in 2004, the City employed an alternative method for bidding the library project; multi prime contracting. He indicated that multi prime contracting is a method where the City partners with a construction management firm to take on two roles that would occur in a contract of this size: 1) general contractor; and 2) construction management. By using multi prime contracting, the City will not have a general contractor, thus the multiple bid packages before the Council. He informed the Council that staff opened 19 bid packages that included a total of 78 bids. It is proposed to deliver the library by May 1, 2007; a 12-month construction schedule. He stated that in order to meet this schedule, the Council will need to award contracts this evening. He indicated that the current library budget is at \$17.5 million. Staff is recommending an increase to this budget by \$1.5 million to bring the total budget at \$19 million. He addressed staff recommendations as they relate to the construction contracts at a total cost of \$10.7 million. The additional funding will increase the construction contingency by \$200,000 for a total contingency of \$700,000. Staff is recommending the Council reject the bid relating to the glass and glazing portion of the project as only one bid was received; indicating that this bid was \$600,000 above the engineer's estimate.

City Manager Tewes confirmed that staff is recommending a budget increase of \$1.5 million for the reasons identified by Mr. Bjarke. He stated that staff is recommending the same financing plan that was identified in August 2004 that has been updated with current information. He noted this plan does not require the appropriation of additional Redevelopment Agency (RDA) funds. He clarified that the library project never required, nor now requires, the appropriation of discretionary general funds. He stated the library financing plan will not add to the City's operating deficit. However, the financing plan does have several funding sources, and requires the City to borrow against revenue from future impact fees and rental payments.

City Manager Tewes addressed the evolution of the financing plan and the important role the RDA played in the delivery of the library project. In the 1990s, the Santa Clara County Library Joint Powers Authority (JPA) committed to expand all the existing branches for which they were responsible; including Morgan Hill. There was a formula by which the County would provide capital dollars. This formula would result in \$4.3 million from the County JPA that would help build the Morgan Hill library. Instead of adding on to the existing library, there was a strong community sentiment to build a new library. Therefore, the Council considered a Redevelopment Plan in 1998 and adopted it in 1999; proposing a new library as one of its top priorities. The RDA plan was submitted to the voters in an advisory measure in 1998. The library, along with other projects, was approved by 71% of the voters. In 1999, the Redevelopment Plan and the library project were subject to a referendum. In 1999, the JPA realized they could no longer afford to meet this capital commitment for a new library in Gilroy, Milpitas and Morgan Hill. However, the JPA pledged \$584,000 in reserves to pay for some of the upfront design costs for the library. There was a plan to seek state funding under the Library Bond Act. He indicated that the RDA was the only agency with sufficient resources to match a potential state grant and that \$5.4 million was initially allocated from RDA funds to match the state grant. Without the RDA,

the City could not have applied for the grant. Although the City had a great library project, the City was unsuccessful in obtaining grants on two successive attempts. In August 2004, staff presented the Council with a financing plan that had several funding sources. He said that it was necessary to increase the amount of allocation from the RDA's tax increment and to allocate proceeds of land sales and loan repayments that the RDA was otherwise entitled to; allocating these funds to the library.

City Manager Tewes indicated that the Council and the RDA determined that in order to finance the higher priority library project, the City would defer the RDA's contributions to flood control until the extension of the RDA Plan discussed by the Council in August 2004. The balance of the library project would be paid by new growth. In August 2004, the Council increased the development impact fees so that new growth would pay its fair share. He noted that in November 2005, staff came before the Council to request additional allocation to which the Council approved \$510,000 to pay for anticipated costs attributable to escalation, at the time, and a slight expansion to the scope of the project. Of this amount, \$380,000 came from tax increment and \$130,000 from park funds.

City Manager Tewes indicated that the total funds available to construct the library are approximately \$19.1 million. The project budget is being recommended at \$19 million. He stated that the library needs no further allocation of RDA funds. Staff has the final accounting of \$584,000 in design costs that was promised by the JPA. Staff also has the business terms for a lease with the Library JPA, and has a better forecast of future development impact fees on new homes to be built over the next few years. He stated that staff proposes to issue bonds that would generate \$3.6 million. He noted that this was a very conservative debt plan since the annual payments could leverage an even higher amount. He reiterated that the financing plan before the Council is essentially the same plan as presented in August 2004; updated with current information. It was staff's belief this plan is sufficient to meet the \$19 million budget.

Council Member Tate indicated that there is a question whether county impact fees for the library will be collected. He inquired whether these impact fees were assumed in the numbers presented this evening.

City Manager Tewes said that in 2004, staff indicated that there was a potential source of funding; a County imposed impact fee for homes to be built in the unincorporated areas, similar to that of Morgan Hill. He stated that this source of funding was not included at that time, nor is it included as part of the funding plan today.

Mr. Bjarke clarified that the glass bid was \$600,000 over the estimate. It is staff's belief that it is prudent to include the \$600,000 in the budget, and hopefully rebid this portion of the project less than this amount. He noted that staff is requesting different actions be taken on some of the bid packages received. Staff recommends the following Council actions: 1) reject the glass bid and direct staff to rebid this portion of the project; 2) reject the low bidders on four of the packages as they were none responsive bids, and award to the second lowest bidders; 3) award to the lowest bidders for seven of the packages and waive some minor irregularities; and 4) proceed with standard awards to the lowest bidders for the seven remaining packages. Staff is further recommending the Council award contracts to consulting firms to assist staff through constructions.

Mayor Pro Tempore Grzan referred to the glass and glaze bid package. He noted that the estimate was at \$719,000. He inquired whether this was a reasonable estimate at the time the bid package was prepared.

Mr. Bjarke responded that the estimate was based on empirical knowledge from other projects and from the construction management firm who helped put the bid together. Therefore, it was staff's belief this was a reasonable estimate. By being allowed to rebid, it is staff's hope to be able to receive a bid at the estimated amount. He clarified that staff is requesting the budget include the additional \$600,000. If the bid comes in at or below the estimate, there would be cost savings to the City.

Mayor Pro Tempore Grzan noted that the steel bid was significantly over estimate. He inquired why staff is not going out for a second bid on this item.

City Manager Tewes noted that TBI has indicated that steel prices have changed significantly. However, this item is a pacing item that will deliver the library on the schedule identified by the Council.

Tony Mirenda, President and CEO of TBI Construction and Construction Management, Inc., said that while steel prices have leveled, somewhat, he is seeing an increased amount of activity; specifically for hospital reconstruction. He said that a number of steel companies have full workloads through 2007. He indicated that steel is a primary critical path element, and has a large preconstruction component as it has to be designed and checked. In order to meet the construction schedule, he felt it would be appropriate to go to the second lowest bidder in this case. If you rebid this component, there would be no guarantee the City would get the same three bidders back. Based on the prices out on the market at this time, he was not confident the City would see a large enough savings between awarding to the second lowest bidder and receiving another bid. He said there may be a chance that bids may go up again based on the irregularities taking place in the steel market and activities contractors are seeing. Looking at the construction schedule, it was felt that going to the second lowest bidder, who has a complete bid package, would be an appropriate action. He indicated that at the time the estimates were put together in 2005, they applied an escalation factor of 5%. However, Katrina hit and double digit escalations are being seen again. He said that oil prices have seen a significant increase and the fabrication of some products, including steel and cement, are seeing instability and escalation factors back in the double digit area.

Mayor Kennedy opened the floor to public comment.

Carol O'Hare, president of the Morgan Hill Friends of the Library, stated that despite the best efforts of everyone involved in this project, the library has come in \$1.5 million over budget. She noted that staff has been able to come up with a plan to fund this amount. She requested Council approval of staff's recommended actions in order to move the new library project forward. Without Council approval, the construction of the library may be delayed, and may result in greater costs.

Chuck Dillmann noted that only one glass bid came in at double the estimated cost. He inquired as to the reason for the increase. He noted that inclusion of additional funding for the glass is less than 5% of the construction estimate. He inquired whether enough action is being taken to ensure this is the last time construction costs go up.

Melinda Cervantes, Santa Clara County Librarian, thanked the Council for all its efforts and hard work over the last few years. She noted the City went through three cycles of grant applications for Proposition 14 funding. She said that everyone is excited about the project; noting that the community has come together to support the new library project. She applauded the Council in for its efforts in getting the library built, and looks forward to working with staff in seeing that it operates appropriately.

No further comments were offered.

Mayor Kennedy indicated that he spoke with City staff prior to the meeting. He stated that he has worked in project management and construction in the past, and that he is satisfied with staff's recommended actions. He noted that TBI has an excellent reputation as a construction manager. He indicated that the City has an architect on staff, project managers, engineers and the City Manager; an excellent team overseeing the library project. He was confident with staff's recommended action items.

Council Member Tate stated his concurrence with Mayor Kennedy's comments. He complimented staff on their recommended actions, noting that this is a great package staff has put before the Council. He felt the package submitted answered all questions. He noted the City proceeded with a multiple prime approach with the thought that it would simplify the process; resulting in lower costs. He felt that staff presented a package that would move the library forward, and stated his support of staff's recommended actions.

Council Member Sellers stated his appreciation of staff's work on this; particularly their comment regarding the \$600,000. He felt it appropriate for the Council to recognize there may be some savings, and that it is important that staff return to the Council to recognize cost savings. It is also important to note the City would not be building the library today had it not been for the RDA.

Mayor Pro Tempore Grzan said that although there are a few bids over the estimate, there were a number of bidders at or below estimates. He said there were a number of individuals who bid on the project to give him and others the confidence that there is a competitive bid before the City and that the City is receiving the best value for its dollars. He felt this will be a valuable project for the community.

Action: *On a motion by Council Member Tate and seconded by Council Member Sellers, the City Council, on a 4-0 vote with Council Member Carr absent, **Approved** the Project Plan and Specification.*

Action: *On a motion by Council Member Tate and seconded by Council Member Sellers, the City Council, on a 4-0 vote with Council Member Carr absent, **Approved** the Financing Strategy as Outlined in the Memo and **Appropriated** \$1.5 Million Additional Funding as Recommended.*

Action: *On a motion by Council Member Tate and seconded by Council Member Sellers, the City Council, on a 4-0 vote with Council Member Carr absent, **Rejected** Bid Package Number 11-Glass, and **Authorized** Rebid.*

- Action:** *On a motion by Council Member Tate and seconded by Council Member Sellers, the City Council, on a 4-0 vote with Council Member Carr absent, **Waived** the Minor Irregularities in Apparent Low Bid Numbers 7, 8, 9, 14, 15, 16, and 19 that do not Materially Affect Amount of Bid nor Provide a Competitive Advantage to Low Bidder as Shown on Bid Results Summary and as Reviewed by the City Attorney.*
- Action:** *On a motion by Council Member Tate and seconded by Council Member Sellers, the City Council, on a 4-0 vote with Council Member Carr absent, **Rejected** Non-Responsive Apparent Low Bid Numbers 3, 4, 13, and 20 as Shown on the Bid Results Summary and as Reviewed by the City Attorney.*
- Action:** *On a motion by Council Member Tate and seconded by Council Member Sellers, the City Council, on a 4-0 vote with Council Member Carr absent, **Awarded** Construction Contracts for Various Prime Contractors in the Total Amount of \$10,701,023, per Bid Results Summary; Subject to Review and Approval by the City Attorney.*
- Action:** *On a motion by Council Member Tate and seconded by Council Member Sellers, the City Council, on a 4-0 vote with Council Member Carr absent, **Authorized** the City Manager to Execute Consultant Agreements for Professional Services During Construction, per Staff Report Memo; Subject to Review and Approval by the City Attorney.*
- Action:** *On a motion by Council Member Tate and seconded by Council Member Sellers, the City Council, on a 4-0 vote with Council Member Carr absent, **Authorized** the City Manager to Execute a Sixth Amendment to the Noll & Tam Design Agreement, per Staff Report Memo; Subject to Review and Approval by the City Attorney.*
- Action:** *On a motion by Council Member Tate and seconded by Council Member Sellers, the City Council, on a 4-0 vote with Council Member Carr absent, **Adopted** Resolution No. 5992, Declaring the City's Intent to Reimburse Certain Library Project Expenditures from Bond Proceeds.*

18. GENERAL PLAN AMENDMENT, GPA 05-05: CITY OF MORGAN HILL-URBAN LIMIT LINE (ULL)/ GREENBELT STUDY IMPLEMENTATION

Contract Planner Bischoff presented an overview for items 18, 19 and 20 as there were interrelationships between the three items. Regarding the ULL/Greenbelt Implementation, he indicated this is an item that was before the Council in April and June 2005 where it received the final report of the advisory committee regarding the creation of a greenbelt around the City. He said that the ULL is the culmination of three years of work by the ULL Committee, as well as the Planning Commission, in trying to draft a greenbelt plan for the City. He stated that the ULL Committee spent a lot of time deliberating, put a lot of hard work into this item, and came up with good solid recommendations that were presented to the Council last year. What is before the Council this evening is the implementation of the greenbelt. He identified the proposed amendments to the general plan text and certain maps contained in the general plan. The text amendments clarify the intent behind the greenbelt plan, defines where the ULL will be, the greenbelt areas, priorities for implementation of the greenbelt, etc., as

contained in the Council's agenda packet. He indicated that the ULL is shown on the diagram that has four areas where the urban growth boundary is proposed to be constricted, and two areas proposed to be expanded: West Hill Church area at DeWitt and the Oak Meadow Plaza property. He addressed the non binding Memorandum of Understanding (MOU) the City entered into with the property owners to better define what the City would be evaluating as part of the environmental document.

Mr. Bischoff addressed the Oak Meadow Plaza by stating that the property owners are requesting that 20-acres be added to the urban growth boundary and the urban service area. They are proposing that 14-acres be annexed into the city limits and be designated as open space, by means of an open space easement, to ensure that it will not develop. As the County and LAFCo do not like partial properties to be brought into city limits, the proposal is to bring all of the property into the city limits; recognizing that only 20-acres would be brought into the urban growth boundary and urban service area.

Mr. Bischoff addressed agenda item 20, the Black Rock application. He indicated that the ULL Committee recommended that the Black Rock property be included in the urban limit line, but took no action with respect to including the property within the urban growth boundary, or designating it for urban use. The Committee stated that when this property is ultimately developed, the density should transition between the 1 acre lots being developed on the Quail Creek project and 2½ acre lots, similar to the ones adjacent to the southwest, in the County. He informed the Council that the owners of the property have submitted applications to include all of the property within the urban growth boundary and to designate it residential estate, 1 unit per acre. The property owner has also filed applications to include the property within the urban service area, prezone the property R1-40,000/RPD and annexation. He stated that the RPD proposal would be consistent with the recommendation of the advisory committee regarding transitioning and density from 1-2½ acre lots.

Mr. Bischoff indicated that in June 2005, the Council directed staff to prepare general plan amendments that would implement the greenbelt study. The Council also directed staff to conduct an environmental evaluation on the potential impacts of the amendments. Following this direction, the Oak Meadow Plaza proponents submitted applications to expand the urban service area for the 20-acres; including a request to annex and prezone the property. It was after the Council's direction that the owners of the Black Rock properties filed applications for general plan amendments, etc. Based on the relationships between all properties, he felt it made sense to consider all applications under one single environmental evaluation.

Mr. Bischoff addressed the environmental evaluation conducted, indicating that the evaluation was done at a program level. Being addressed are the general plan amendments and annexations. The environmental evaluation does not address a specific development proposal. He indicated that the environmental document has been prepared in general terms. He said that the finding(s) of the document is that the overall amendments to the general plan would not have significant adverse impacts. However, the study identified three areas where the urban growth boundary is proposed to be expanded that have potential significant adverse environmental impact(s). The study identified mitigation measures which would reduce these impacts to a less than significant level. As a result, a mitigated negative declaration is proposed to be adopted. He informed the Council that staff received a number of comments from individuals regarding the mitigated negative declaration, and that many of these comments have been included in the Council's packet as well as responses. He indicated the City has received additional

comments that staff will package with other comments; returning with these comments to the Council on April 19; along with a mitigated negative declaration and mitigation monitoring program.

Regarding the public process for the three agenda items, Mr. Bischoff said that copies of the proposed general plan amendments were sent to all advisory committee members who served on the ULL/Greenbelt Study Committee. He indicated that the Planning Commission conducted two hearings regarding these amendments: March 14 and March 28. He informed the Council that a lot of testimony was received at these meetings, and the letters received were included in the Council's agenda packet. Staff has provided responses to comments for correspondence received prior to the March 28 Planning Commission meeting. He informed the Council that the testimony presented to the Planning Commission focused on four areas: 1) the area located on the south side of Spring Avenue, east of DeWitt Avenue; 2) the west side of Dewitt Avenue, south of the area proposed to be included in the urban growth boundary; 3) the 20-acres proposed to be included in the urban growth boundary on the west side of Sunset; and 4) the Black Rock property located on Santa Teresa-Watsonville Road.

Mr. Bischoff addressed the comments and actions taken by the Planning Commission with respect to these four areas.

1. The Planning Commission received testimony from property owners adjacent to the Westhill Church area. The owners questioned why their properties were not being included in the urban growth boundary as it is being recommended that their properties be included in the ULL. He said that at the time the ULL Committee reviewed the area, they were not aware of specific development applications or an interest for annexation. Therefore, the properties were not included in the urban growth boundary. The Planning Commission is recommending that the properties be included in the urban growth boundary.
2. The two property owners in the DeWitt area looked at the area being proposed to be included and requested their properties be included as well. He indicated that the ULL Committee dealt primarily with areas where urban services were being provided. He said that sewer and/or water is being provided to a number of parcels along DeWitt Avenue as well as the Church. He noted that two of the parcels do not receive city sewer or water service. Therefore, the ULL Committee did not recommend this area be included in the ULL or urban growth boundary.
3. The Planning Commission received significant testimony with respect to the Oak Meadow Plaza area. Although the property owner requested 20-acres be included within the urban growth boundary, the Planning Commission is recommending only 19-acres be included. He stated that the ULL Committee recommended that up to 20-acres be included. However, all 20-acres need to be on slopes of 10% or less. Engineers have found that there are not 20-acres on slopes of 10% or less, but only 19-acres of 10% or less slope. The Planning Commission believes the 10% slope, which equates to 19-acres, would be appropriate. Another issue the Planning Commission considered dealt with the creation of an open space easement over the 14-acres. The Planning Commission felt it would be better to have the property deeded to the City versus remaining in private ownership. He said this recommendation is, in part, associated with the issue of the desirable infill policy. The Planning Commission felt comfortable having these 14-acres under city ownership as opposed to having it in an easement. He clarified that the Planning Commission is at a difference from the

applicant in two regards: 19-acres to be included instead of 20-acres, and that the open space be deeded to the City.

4. Regarding the Black Rock application, he indicated that there were a couple of pieces of correspondence received. Members of the public who attended the Planning Commission meetings spoke in opposition of including the property within the urban growth boundary or designating it for urban use.

Mr. Bischoff informed the Council that in addition to the correspondence included in the Council's packet, there is correspondence on the Dais. He indicated that letters from Sherri Sliter, Craig & Maria Hodges, three letters from the D'Elia family, Donna Agneta and Bart Hechtman were received. All letters, except that from Mr. Hechtman, are in opposition to the Oak Meadow Plaza project. Mr. Hechtman, attorney for the Oak Meadow Plaza proponents, is requesting that 20-acres be included in the urban growth boundary instead of the 19-acres. Mr. Hechtman requests the issue of whether or not the 14-acres is to be owned by the City or privately owned with an open space easement be deferred to a development agreement phase. With respect to the Black Rock property, he indicated that a letter was submitted by John Kilkenny. The Council also has the Planning Commission minutes from the March 14 and March 28 meetings on the Dais.

Mr. Bischoff stated that it is staff's recommendation the Council open the public hearing and receive public testimony, Council to ask questions of applicants and staff; and continue the matters to April 19. He requested the Council identify any additional information it needs. Staff will then make sure it provides the Council with a full packet of information at the next meeting. Also, the Council to identify the direction it wishes to proceed. Direction will assist staff in providing resolutions of approval for Council consideration at the April 19 meeting. At the April 19 Council meeting, staff will have the mitigation monitoring and reporting plan available.

Mayor Kennedy announced that it is not the Council's intent to make any decisions this evening. He said the Council will hear public comments, discuss the items, provide direction, and ask questions of staff. The Council will then continue these items to the meeting of April 19, with the possible exception of the desirable infill agenda item, as the Council may wish to take action on that item.

Mr. Bischoff said the Council may wish to consider opening the public hearing for agenda items 18 and 19; hearing these items concurrently. Should the Council come to a conclusion on these items in April, the next steps to move the urban limit line forward would include an industrial land study to determine what actions should be taken for the southeast quadrant. Once the industrial land study is completed, it would be the expectation that the Council would decide the next steps for the southeast quadrant. He stated that another item included in the implementation plan is that the City would begin to look at the specific implementation strategy. He said the City would look at using both regulations and acquisition as a means for preserving greenbelts. He informed the Council that staff is working with the County toward amending their hillside regulations. With respect to acquisition, it is being recommended that this be a part of the program where the City looks at buying some at risk, highly visible properties; hopefully as easements and not fee title. However, this plan would need to be developed. He said the ULL Committee is recommending priority areas where the City should be focusing its energy.

Mayor Pro Tempore Grzan stated that he has a concern with regard to Hill Road. He would like to study this area further when it comes to the southeast quadrant, east of Hill Road.

Council Member Tate disclosed that he met with a group of neighbors this afternoon.

Mayor Kennedy disclosed that he met with Jeff Pedersen.

Mayor Kennedy opened the public hearing for agenda items 18, 19 and 20.

Rocke Morton, a 30+ Spring Avenue resident, noted his property is not currently included in the ULL. He indicated that the city limits borders his property for approximately 50-100 feet. He requested his property be included in the ULL, indicating that his property is less than 10% slope.

Mr. Bischoff said the ULL Committee recommends property fronting Spring Avenue be included in the ULL who are receiving urban services. He indicated that the ULL is proposed to go along the northern boundary of Mr. Morton's property. He noted that Mr. Morton's property does not front Spring Avenue as there is another property between his property and Spring Avenue.

Jeff Pedersen stated that he would address agenda items 18 and 19. He indicated that he attended both Planning Commission meetings where these items were discussed; offering his comments. He addressed three basic concerns: 1) process; 2) need, and 3) density. He stated that he appeared before the Council on February 29, two days after a number of Parkside residents learned that the Council approved an MOU for the development of the Oak Meadow Plaza property. At the February 29 meeting, he questioned how the Council could approve the MOU without following the proper process. He expressed concern that the Council has gone on record taking discretionary actions; approving an MOU without an environmental assessment. He expressed concern that there is prejudice, at this point, based on earlier Council action. At the Planning Commission meeting, it was found that not only was the Council going on record approving the project before hand, but that there was no consultation on the initial study by LAFCo or the State Clearinghouse. He noted that LAFCo responses came to the City after the first meeting of the Planning Commission. He felt the comments at the Planning Commission and the Council meetings should tell the Council the negative declaration is not adequate. He noted the City has a greenbelt planning concept and is imposing a ULL that is not complete. He felt the environmental review process conducted thus far is inadequate and warrants an EIR. He did not believe the City needs to annex land if it really wants to preserve open space. He noted the Oak Meadow Plaza parcels are currently zoned County agricultural and are Williamson Act property. He said that it is hard for residents to understand how the City will protect open space by allowing development to occur; creating additional sprawl. He inquired how the approval of 60-units was determined.

Zoe Gustlin stated that she read through the ULL document and found it difficult to understand. It was her understanding the document was for a 20-year growth span. She felt the process is turning into how you can move the ULL in order to get property into the City and annexed. In looking at the ULL drawn according to the ULL Committee, it is now being discussed how you can move the concept of the lines out and get property added to the ULL. She said that in looking at the Sunnyside/Santa Teresa line, you will see that the property is a gateway to the western foothills and is the gateway to the scenic beauty of what Morgan Hill residents like. If you start moving the line across Sunnyside and Santa Teresa, the

City is moving into the foothills. Doing so will start to destroy the beauty that sits there. She requested the ULL be defined so that everyone knows where it is before it is moved. She did not believe it was the City's intent to keep moving the line into the western foothills. She requested the Council take a look at what the ULL is, where it is drawn, and its intent. It was her sense from the Planning Commission that it was a way to get property from developers annexed into the City. She requested the area be kept green and beautiful, and not let the City start encroaching to the west. It was her belief that there was plenty of infill and downtown land to focus development upon without the need to bring development out to these areas.

Jon Maxey stated he owns property contiguous to property being considered be included in the ULL. He would like to obtain city services; primarily water. He said that water is available on the street, but that he cannot have city water unless he is in the ULL. He stated that he was under the impression that had he attended the first meeting, his property would have been included in the ULL. He requested Council consideration in bringing his parcel into the ULL so that he can have access to city services.

George Thomas, Jr. indicated that he served on the ULL Committee. He stated that he was disappointed that the Committee did not get notified when this issue first came before the Council as he would have liked to have made his comments then. He stated that he met with Mayor Kennedy and Council Member Tate about this concern; acknowledging that it was an oversight. He requested the Council adopt the recommendation of the ULL Committee along the east hills. He said that his family is not interested in development, but do not want to leave this section of Hill Road surrounding by the City, Holiday Lake, and Cochrane Road, as an island for the future. His family would feel a lot safer with the City of Morgan Hill and the citizens' residential development control system. He was not talking about changing the lot sizes or discussing urban development. He noted the City adopted recommendations for "feathering" of larger lot sizes toward the hills. He noted the City abuts the family's 88-acres and that they have problems with enforcement of zoning issues with the County at this time. He is concerned with private sewer plants in the future that would allow more development in the County than is seen today. He did not know what the County will allow to develop if the City does not control the area. He said that there is a lot line being created on one of the urgent parcels discussed by the ULL Committee. He indicated that there are surveyors on the 72-acre property looking at creating three parcels in excess of 20-acres each. He felt this was a key piece of land, and that this would be a good time for the City to approach the property owner before he completes the process in order to preserve the hills above 10% slope.

Ron Key introduced Pete Gale, residents on Spring Avenue. He indicated that he submitted a letter to the Planning Commission and resubmitted the letter to the Council. He pointed out that the letter submitted this evening contains additional signatures. He urged the Council to follow the Planning Commission's recommendation for inclusion of the properties listed in the letters to the urban growth boundary.

Michele Beasley, representing Greenbelt Alliance, indicated that the Greenbelt Alliance submitted comments to the mitigated negative declaration. Since the establishment of the ULL is creating an envelop for future development, she felt it reasonable that development would occur on what is currently prime farm land. She felt it may be a good time to consider something along the lines of an agricultural mitigation policy; perhaps one acre for one acre, which could also be used as a tool to permanently

protect agricultural lands on the other side of the ULL. She stated that the creation of a greenbelt area is a great way to maintain the quality of life in Morgan Hill and promotes centered growth. However, now that the ULL is no longer considered permanent, she felt it is a moving target as more properties are being included in the ULL. This could threaten the rural charm that is part of Morgan Hill. It will also define the community as Morgan Hill continues to sprawl out instead of using existing vacant land that is within the urban growth boundary. She recommended the City place more emphasis on investing in the downtown, the vibrant center of community life.

Brian Schmidt stated that the Committee for Green Foothills submitted comments to the Planning Commission. After submitting comments, he realized there was a mistake in discussing Black Rock. He requested the Council disregard this particular comment in his letter. He said that one theme that can be seen tonight is confusion about what the ULL means. He felt the confusion extends to LAFCo. He suggested a way to clear up this confusion; treat the ULL as a second urban growth boundary as this will redirect growth. He felt that the conversion of farm land needs to be addressed in an environmental impact report. The City could extend the urban growth boundary with subsequent approvals being necessary before farm land conversion could occur. It was his belief that individuals would agree that soon after the ULL is established, individuals would be approaching the City to be included within the urban growth boundary. Therefore, an impact would result. He raised a concern regarding wetlands. He said that there is a statement contained in the negative declaration that states that if a wetland is not a jurisdictional wetland, under the Clean Water Act, then there is no impact. He stated that the Clean Water Act is limited to what wetlands it can cover. He noted that isolated wetlands are not covered by the Clean Water Act. However, he felt isolated wetlands can still have a tremendous environmental value. He recommended the Council study all wetlands and mitigates all impacts associated with wetlands. He further recommended the Council proceed with the greenbelt recommendations as it can proceed independently. Further, that the Council take no action on the ULL requests; sending them back for an environmental impact report.

Bill McClintock spoke on behalf of the Oak Meadow Plaza project. He informed the Council that Bart Hechtman was not in attendance this evening, but that he submitted a letter for Council consideration. He was pleased to see the City is moving forward with a greenbelt study as it is important for land owners to know their position long term. He said that the reason Oak Meadow Plaza is before the Council is because there is eminent development rights associated with the hillsides. With this eminent development and the greenbelt study moving forward, he felt this to be a golden opportunity for the City to preserve pristine lands in the City for long range public use. He stated that Oak Meadow Plaza will be providing 84-acres of open space in exchange for support of their application for urban service area, urban growth boundary and annexation. He said that the hill may not be eminent for development and sees the area being used as hiking trails and pathways that circulate around the hill to the top. He noted that there are 50+ acres of land already in open space in a development agreement to the north. Therefore, there is significant acreage for something to take place in the city. He said the reason that larger acres are desired is to allow for bigger back yards, not to gain additional units. He said that 60-units are being planned for this property. With regards to Mr. Pedersen's comments about the process, he said that LAFCo will be hearing this application and that it is his hope the City will recommend approval to LAFCo.

Angelo Starink addressed the annexation of the Oak Meadow Plaza project. He stated that in 1999, when he and his wife were looking for a home, they found their home adjacent to the Oak Meadow Plaza property. His builder told him the Oak Meadow Plaza was in the County and could only develop 1 house per acre. He verified this information with the City and proceeded to purchase his home. He stated that it was disappointing to learn the City is considering annexing the land and the development of 60 homes. He felt the builders of the Oak Meadow Plaza are only concerned about maximizing their profits. He inquired whether the City considered allowing the development of 20 homes, still resulting in a profit for the developer. He recommended the City maximize the benefits for citizens, and not maximize the profits for builders.

Desiree Lehrbaum, a Parkside resident, indicated that she and her husband considered moving to Morgan Hill in 1999 as they wanted to get away from the cement development of San Jose. Prior to moving to Morgan Hill, they contacted the planning department to understand the intention for the acreage surrounding Parkside. They were informed that development would be acreage development. She felt that a lot of the neighbors have made a good faith effort in investigating the future growth plan; acknowledging that Morgan Hill has a great growth policy in place. She echoed a lot of what she has heard this evening regarding identifying the long term goals for what is to be achieved for Morgan Hill and how to manage growth. She felt good policies and rules are put into place and then managed by exception. As a citizen of Morgan Hill, she would like to understand how you affect changes in the process when changes come forward. While she appreciates the work of the ULL Committee, she did not believe the Committee took into consideration the impacts to existing neighborhoods. Placing access for 60 homes in front of her on a road that currently dead ends, would equate to approximately 500-650 additional car trips per day. She felt this to be a significant change to the way of life. While the 85 acres may sound like a good deal for the City, she requested the Council consider how development will impact existing neighborhoods.

Bill Moreau stated that he and his wife moved to Morgan Hill almost 3 years ago. They moved out of San Jose because it was starting to look like Los Angeles. He was told by his real estate agent that the property owner could not construct high density on this property. He indicated that he submitted a letter to the Planning Commission and one to the City Council. He noted a letter was submitted in support, but that it was his understanding that this letter was from the attorney representing the landowners. He noted that everyone, except the developer, is opposed to development. He expressed concern with drainage, noting that the baseball fields are under water, and that additional land development in the area would result in additional runoff. He clarified that he was not opposed to development and that he would find it acceptable to see 20-acre subdivisions. Development of 60 homes would give a San Jose feel with all the traffic it would generate.

Maria Hodges agreed with Bill McClintock that the lots should be bigger, but not in the way he was addressing. When you have open space, she did not believe you would want cramped high density housing. She recommended larger lots feathering out with a nice transition into the hills be considered. She stated that she and her husband oppose the annexation and zoning application for the Oak Meadow Plaza. She felt there was enough land within the city limits to build for many years to come. She did not believe this was the time to bring more land into the City. Although the City has expectations of receiving open space in return for housing development, she requested the City consider what it will be receiving in return for concessions. She felt the City needs to be careful of the return on investment for

special considerations to land owners and builders. This consideration should apply to annexation of lands so that Oak Meadow Plaza lands would fall within the annexation requirements of being adjacent or being a certain distance from city land. While Morgan Hill will receive open space, she noted that some of this space is not buildable. She did not believe that a tradeoff for land that is not buildable is a tradeoff. She felt it admirable that the City wishes to maintain open space. However, a question needs to be asked whether the 12,000 square foot lots were appropriate for the 19 acres. It was her belief that an appropriate alternative would be to have one acre lots feathering to 2-5 acre lots; providing a much better transition to the open space.

Mayor Kennedy indicated that there was a lot of confusion regarding the ULL and the greenbelt. He stated the City had a goal to establish a greenbelt around Morgan Hill as was identified in the City's general plan. The mechanism used by staff and the ULL Committee to establish the greenbelt was to create an urban limit line. He stated that the urban limit line was intended to be the ultimate growth limit line. He said that there is a 20-year urban growth boundary line in place today that is subject to change. This urban limit line was intended to be an alternate growth boundary line. Outside of this line, greenbelt would be designated on maps and plans. The City would take action to acquire lands or somehow permanently guarantee they would stay in a greenbelt. He said the goal with the Oak Meadow Plaza is to try to acquire and preserve as much of the property in open space as possible; creating a greenbelt. He indicated that the Bevelaqua property has entitlements for development under County rules. He stated that 10-12 housing units could be allowed under the County's ordinance, and the City would have very little control over where houses would be built. They could be placed on ridgelines or in locations that would destroy the views of the residents of Morgan Hill. An effort was made to come up with a plan that would try to create a greenbelt and preserve open space. He said that if you cannot acquire or acquire a conservation easement, the property would eventually develop.

Mr. Bischoff indicated that the ULL Committee recommended, in the definition of the urban limit line that it be referred to as the ultimate boundaries of the City. When this matter was brought before the Council in April and June 2005, there was some question whether or not the ultimate boundaries was appropriate or possible. Based on the advice of the City Attorney, the language has been modified. He noted that the specific language states that it is a longer term version of the urban growth boundary and that it is intended to reflect the City's long term policy for the growth of Morgan Hill beyond the 20-year timeframe of the urban growth boundary.

Mr. Bischoff noted that a speaker stated there was no early consultation with LAFCo and the State Clearinghouse. While it is true there was not early consultation with LAFCo, the information was provided to the State Clearinghouse. The City received a letter from the State Clearinghouse indicating that there were no agencies desiring to comment. He noted that the City has received a letter from LAFCo. There was a comment made that the assessor's records show the 20-acres in the Oak Meadow Plaza property under the Williamson Act. He clarified that the property is not under the Williamson Act. He indicated that the property owner filed for non renewal of the Williamson Act contracts in the early 1990s and that the County misplaced the application. It was in the last couple of years the County was able to straighten this out.

Regarding the confusion about the urban growth boundary and the urban limit line, Mr. Bischoff noted that it was suggested that the urban growth boundary could be expanded without the need to mitigate for

the loss of agricultural land. He stated that this is not a true statement. He noted that in the review of the Black Rock application, it was found that it was agricultural land and that a mitigation measure has been included for the loss of agricultural land. Therefore, any expansion of the urban growth boundary would require review of environmental affects, including impacts on agricultural lands.

Mr. Bischoff said that the interest in preserving the hillside (the Bevelaqua Ranch) existed for a long time. He noted there is an action item in the City's general plan that states the City should conduct a greenbelt study that includes an evaluation of the prominent hillside bounded by Edmundson, DeWitt, Spring and Del Monte-Sunset; including the properties on the eastern face of El Toro. Strategies are to be included for the preservation of these important visual resources. Therefore, the direction to the ULL Committee to come up with a solution on preserving these lands dates back to the 90s. It was his recollection that at the time the ULL Committee reviewed this issue, the property owner was interested in including some land adjacent to Sunset within the City. The desirable infill policy the City has in place states you cannot annex more than 20-acres of land. Therefore, the 20 acres came from this. It was also his recollection that the ULL Committee was looking at something that would provide a transition from 7,000 square foot lots from the Parkside-Kendall Hill development up to the open space so that there would be some feathering provided. This was the reason they looked at a lower density. He noted the City has a zoning category of R-1-12,000. Having R-1-20,000 square foot lots was not raised at the Committee level. There was discussion that should the land owners sell each of the lots individually in the county, they would realize a certain amount of money. However, if they were not allowed to site homes on prime locations, there is a lower value that could be achieved. Thus, the request for 60 units.

Ms. Molloy Previsich responded to the comment that approval of the MOU without CEQA review was inappropriate. She clarified that the structure of the MOU was carefully worded to state that the purpose of the MOU was to define a project description on the part of the property owners. She noted that the City is one of the property owners of land involved in the proposed project. Therefore, the MOU's intent was to clarify what was being proposed by all property owners, including the City. This is a non binding agreement and that it was defined so that the environmental review would address the project description. She noted that the environmental review has been completed, a mitigated negative declaration has been prepared, and the City is proceeding with the public hearings. Therefore, all possible actions are still open for Council consideration. She stated that staff supports the mitigated negative declaration as the appropriate environmental document, and does not believe an EIR is necessary.

Mayor Kennedy noted that it was suggested by Ms. Hodges that perhaps one solution would be to feather lower density as a compromise. Instead of 3 units per acre, the City could approve 2 units per acre and that development is feathered so that it does not become a hard edge; blending into the surrounding area. He requested that staff take a look at this to see if this solution will work.

Council Member Tate agreed the City wants to get the benefit of having the open space dedicated and not having houses built on ridgelines. He felt it worthwhile pursuing open space. However, the question is how much you pay for the open space. When you allow 5 homes in the County, plus 60 additional units, he felt this too high a price to pay. Further, it does not include the feathering as suggested by the urban limit line. He supported looking at the feasibility of creating ½ acre lots feathered out to full 1

acre lots (less dense development). He stated that the preservation of open space is worth pursuing. He felt the need to preserve open space exists, but not at the density being suggested.

Mayor Pro Tempore Grzan indicated that the Council considered this recommendation at an early date where he informed the Council that there were a number of residents who were concerned about the development of homes behind their homes. At that time, he did not vote in support of the request. He felt the proponents of the Oak Meadow Plaza development were getting a great deal. He suggested eliminating the 60 homes and pursuing another agreement. He recommended the City pursue an agreement with the County that would protect lands in the unincorporated/hillside areas.

Council Member Sellers said that there are three significant issues that need to be reviewed and considered: 1) Projects need to make sense in terms of their contiguousness/adjacencies. 2) Adding any additional lands should require significant public benefit/public investment. 3) There should be substantial mitigations of the impacts for allowing these projects to be incorporated. He felt there were a lot of unanswered questions. He recommended that staff elaborate on what will need to happen in order for a single home to be built in this valley. He acknowledged that plans have not been submitted or prepared for potential development. An elaboration on what is being proposed would be helpful to him, and perhaps the community.

Council Member Tate clarified that his comments only addressed the Sunset area, not the area along DeWitt or Spring Avenues. He noted the Council has a recommendation from the Planning Commission to include all properties along Spring Avenue, except Rocke Morton's property because his property does not front Spring Avenue. There is no recommendation to include the two lots that want to be included on DeWitt Avenue. He did not believe it made sense to exclude the two DeWitt lots because they are surrounded by the City. He felt it was the Council's intent to have a boundary that remains an ultimate line, even though it cannot be stated it is an ultimate line. He felt this an area that would be changed at some time in the future.

Council Member Sellers agreed with Council Member Tate as it relates to the ultimate line. He felt the Planning Commission had a reason for recommending inclusion of lands that had existing city services, and not include lands that did not have city services. He requested staff provide an explanation why these two parcels were not recommended for inclusion and the possible benefits that inclusions would give the City.

Mayor Kennedy noted that the ULL follows Hill Road from Main to Dunne Avenues. Mr. Thomas is suggesting that the line be moved further to the east. He noted that this was the subject of a lot of discussion at the ULL Committee level. He requested Council thoughts on this particular issue.

Mayor Pro Tempore Grzan recalled the discussions at the ULL Committee level about the Hill Road area were contentious and that there was a close vote. It was staff's initial recommendation to follow Hill Road. When the item was reviewed by the Council, the Council made the determination that staff's recommendation was the proper determination. He still believes this to be the proper determination. He agreed the land east of Hill Road is precious as it moves up toward the foothills. He indicated that Morgan Hill is known for its open space and recommended their preservation; extending to Maple Avenue.

Council Member Tate said that he likes the arguments as presented by Mr. Thomas as they give pause to reflect on what is trying to be accomplished. He noted that there are requests to extend the urban limit line beyond the Black Rock and the Oak Meadow Plaza areas; noting that the City has annexation requests for both properties. When the City has control, there is pressure for development. He felt the purpose of the study was to define the areas where there are limits and the City does not want to see development. The suggestion of working with the County and trying to get cooperation in terms of having control of these areas is a good way to go.

Council Member Sellers felt that Mr. Thomas' comments were somewhat counter intuitive to state that the City needs to protect the east foothills from the County that has a much lower density. He noted that there has been significant growth in Morgan Hill over the past years. It has to be acknowledged that there will be growth. He has advocated that more growth is needed in the center of the City and the contiguous areas. The City needs to figure out what the future will hold and the best course of action to take; given the fact the City cannot predict the future. He inquired whether it would be better to bring hillside areas into the City so that it can be protected in perpetuity, or to leave it in the County where there is less pressure to develop.

Mayor Pro Tempore Grzan noted the staff report for item 18 contains a number of descriptions for policies. He felt that some of the strikeouts proposed in the policy weaken the intent of what the Council wants to do. He referred to item 7, paragraph 3.4, page 171. This statement would allow the Council to look at expanding the urban growth boundary line within the ULL every five years.

Mr. Bischoff clarified that staff found that a lot of the language did not make sense. Staff also thought two items were contradictory and confusing. The sections talks about ensuring the City has a 20-year supply of vacant developable land within the urban growth boundary. However, it did not talk about what happens if the City drops below the 20-year supply before the major updates to the general plan. The modifications proposed would allow expansion of the urban growth boundary with a major update of the general plan, or at such time the City finds it has less than a 20-year supply. He did not believe it would allow a lot of permissiveness. He noted that evaluation of the supply of land every 5-years already exists and is not proposed to be changed.

Mayor Pro Tempore Grzan did not believe the residents in attendance would want to return to the City in a couple years to address the issue again. It was his belief that the intent of having a ULL and having it permanent is to give the residents some sense of comfort that precious open land and the rural atmosphere can be preserved.

Mr. Bischoff said that if it is the goal to ensure that an urban growth boundary has a 20-year supply, the City needs to evaluate this supply periodically. He said that the words can be changed, but that evaluating the supply of land every 5-years to determine whether there is a 20-year supply is an appropriate thing to do.

Mayor Kennedy recommended the use of smart growth concepts. He felt the City needs to change the way it looks at the future supply of land; developing upwards instead of outward. Maybe the City needs

to make the urban growth boundary a more rigid requirement so that when the City looks at the future needs for housing, the City looks up instead of outward.

Mayor Pro Tempore Grzan suggested that the decision of where the line is to be drawn be taken to the voters. Once approved by the voters, the only way the line can be changed is by the voters. Should the City determine it needs additional land in the future; the voters will decide whether it will take in more land as opposed to five members on the Council. He would advocate bringing this issue to the voters sometime in the future to make some permanency to the line.

Council Member Sellers cautioned against stating the City will come up with a solution in perpetuity. He felt that citizens in the community and members of the Council have to be diligent and cautious. He noted that a majority of residents moved to Morgan Hill because of the policies established 30-years ago. He did not agree with the statement of telling individuals that it will never be an issue again as it will always be an issue. He wanted to be cautious that you never allow complacency to set in the community as this is something the City will always have to be diligent about.

Action: *On a motion by Council Member Tate and seconded by Council Member Sellers, the City Council, on a 4-0 vote with Council Member Carr absent, **Continued** agenda item 18 to April 19, 2006.*

19. URBAN SERVICE AREA APPLICATION, USA-05-02/ ZONING AMENDMENT APPLICATION, ZA-06-01/ ANNEXATION APPLICATION, ANX-03-01: EDMUNDSON-OAK MEADOW PLAZA

See comments as listed under agenda item 18.

Action: *On a motion by Council Member Tate and seconded by Council Member Sellers, the City Council, on a 4-0 vote with Council Member Carr absent, **Continued** this item to April 19, 2006.*

20. GENERAL PLAN AMENDMENT APPLICATION, GPA-05-06/ URBAN SERVICE AREA APPLICATION, USA-05-01/ ZONING AMENDMENT APPLICATION, ZA-05-27/ ANNEXATION APPLICATION, ANX-05-18: SANTA TERESA BOULEVARD-BLACK ROCK

Mayor Kennedy opened the public hearing.

Zoe Gustlin said that as much as she would like to see the city limit along the Sunnyside-Santa Teresa boundary, this may or may not happen. She requested the Council consider that the property adjacent to the Black Rock development to be rural. In looking at what happened when development occurred at the corner of Watsonville and Sunnyside, city standards were imposed. Now, at the intersection of Sycamore and Sunnyside, you have lines drawn all over the street that are confusing. There are also street lights every 20 feet that light up the area. If the City is going to allow development in these areas, she requested that thought be given to city standards and what they will look in this area as it is too much over kill. She also noted that developers are installing cement walls along rural areas (e.g.,

Sunnyside and Sycamore Avenues). She recommended the installation of see through fencing in the future. She further requested the City change the standards to compliment rural areas. She noted that there are three pieces of land that are in the same position as the Black Rock property adjoining Sunnyside: the horse ranch at the corner of Sycamore and Sunnyside, and the two properties located along Sunnyside, between Watsonville Road and Sycamore. These properties have the same look and feel as the Black Rock property. She felt this whole stretch of land needs to be thought about; not allowing piecemeal development to occur. She recommended that an urban limit line be placed along Sunnyside and Santa Teresa.

John Kilkenny, Sycamore resident, read his prepared comments into the record. He noted that voters in Morgan Hill approved Measure P in order to regulate residential growth and the expansion of the City's urban service area from future residential development, with restrictions. He said that the restrictions prohibit the City from requesting LAFCo approval of expansion until there is less than a 5-year supply of vacant residential land within the current city limits. He acknowledged that there are exceptions to be used only when the City goes under the 5-year supply. He referred to exception 4 where it states that inclusion of an area must beneficially affect the general welfare of the citizens. He only sees a benefit to the developer with this proposal. He noted that LAFCo sent a letter to the Planning Commission on March 28 stating that there are many acres of vacant land within the City's urban service area and the urban growth boundary. He felt it premature to create a boundary that includes additional lands before the current vacant lands have been used or built. He said that in looking at this property, it is hard to figure out how it can be considered infill by the intent of Measure P. He stated that he was in attendance at the March 28 Planning Commission meeting and that he was disappointed by the outcome of the vote for annexation of the Black Rock project. As a 20-year resident of Morgan Hill, he was surprised with what he observed at the Planning Commission meeting. He felt that decisions were made before the Planning Commission meeting, and that the comments of the residents would not have made a difference on the outcome. Should the Council approve the Santa Teresa-Black Rock request, he felt it would open the door to consuming the scenic areas of Watsonville Road, Sunnyside and Sycamore Drive. He felt the area was one of the charms of west Morgan Hill and is the site of many recreational activities for families of Morgan Hill. It is also a gateway to vineyards, wineries and a drive to the coast. He felt the Planning Commission should be working on true infill and stop pushing the boundary outwards. He stated that individuals move to Morgan Hill to get away from San Jose sprawl, and did not want Morgan Hill to become another San Jose. He stated his opposition to the applications.

Rocke Garcia, applicant, stated that he will reserve his time for the next meeting as he is working closely with staff; noting the votes from the Planning Commission resulted in two 7-0 votes and two 5-2 votes on his request for inclusion into the urban growth boundary, and general plan amendment for estate residential; following the urban limit line request of 1-2½ acre feathered zoning. He felt this to be an infill piece of property. Therefore, he would make a presentation at the next meeting.

No further comments were offered.

Mayor Pro Tempore Grzan recalled that when this property first came before the ULL Committee, staff opposed a line that followed Santa Teresa.

Mr. Bischoff said that when you look at where the ULL is proposed around the city, in most cases, it follows closely the urban growth boundary. He noted that the adjacent property was included in the City limits in the 1970s. Staff felt the property was at the fringe of the community and did not see a need for development. Therefore, staff recommended following the urban growth boundary line.

Mayor Kennedy disclosed that he met with Mr. Garcia on this issue. He requested that staff look at establishing some standards for feathering the rural edges of the community and not require full city standards (e.g., bright lights, hard curbs & gutters, etc.). He felt it would be appropriate to develop standards that would be appropriate for rural settings through ordinances or Measure C.

In response to Mayor Pro Tempore Grzan's question, Mr. Bischoff said that there may be development pressures with properties north of Black Rock, should it develop.

Mayor Pro Tempore Grzan stated that he does not support 8-10 foot sound walls along Santa Teresa as it is unsightly and unfriendly. He recommended that walls along major thoroughfares be addressed through landscaping. He said that one of the unique features of Morgan Hill is to be able to look across large expanses of land and see the other side. Should there be future development in this area, he recommended walls be avoided and allow development that is open.

Mayor Kennedy indicated that the City of Gilroy recently took action to limit walls on new development.

Council Member Tate noted that it was the ULL Committee that put this property into the ULL.

Mayor Pro Tempore Grzan said that it was a contentious ULL Committee vote to include this area in the ULL, and that he did not agree with the property's inclusion at the time.

Mayor Kennedy said that there were some issues where the ULL Committee members gave and took. This was one of the issues where there was some give.

Action: *On a motion by Council Member Tate and seconded by Council Member Carr, the City Council, on a 4-0 vote with Council Member Carr absent, **Continued** this item to April 19, 2006.*

21. AMENDMENT TO DESIRABLE INFILL POLICY

Contract Planner Bischoff presented the staff report, indicating that in 1993, the Council adopted the first desirable infill policy and that it has been in place since then, with modifications. He stated that in general, it has worked well. However, the desirable infill policy is more restrictive than Measure P/C. Staff is suggesting slight modifications to the desirable infill policy to bring it more in line with Measure C and to ensure the City is not precluding itself from taking certain benefits that might otherwise accrue to the City. He addressed the four policy amendments being proposed: 1) allow partial parcels to be included within the urban service area; 2) change in language for partial parcels; 3) eliminates the date limitation, to be replaced by the requirement that the Council makes specific findings that the expansion is not being granted to the same applicant, property or development; 4) eliminate the requirement that

property to be brought into the urban service area would have to be adjacent to the urban service area on at least 50% of its perimeter. He stated that this exceeds the standards of Measure P/C and would supercede and preempt the possible expansion of the urban service area that were contemplated and allowed under Measure C. 5) The inclusion of a clarification that the benefit that needs to accrue to the general welfare of the community in order to include property into the urban service area would add open space as an example. The open space would be recorded and dedicated is a public benefit. As the policy is worded at this time, it lists examples that includes infrastructure, and public facilities, but does not mention open space. Staff believes that open space could accrue a lot of benefit to the community and would be consistent with the initiative.

Mayor Kennedy opened the public hearing.

Bill Moreau inquired if the proposed amendment is a back door way to include the Oak Meadow Plaza property into the city limits.

Mr. Bischoff said that although it is true that it is this project that identifies some deficiencies/cleanups that were needed in the policy, he would not characterize it as allowing the project to come in the back door. He said that staff believes, the Council has expressed, and the general plan states, that there is significant public benefit that would accrue in preserving open space. As the policy exists today, it would not allow the preservation of open space. He clarified that the City is not talking about changing an initiative or an ordinance, but has found that the existing policy has some unanticipated items or unrecognized deficiencies that would preclude the City from implementing some valid/legitimate public policies. Therefore, staff is proposing amendments to the desirable infill policy.

Mayor Pro Tempore Grzan noted that when the City established the urban limit line, it followed parcel lines except for this area. He inquired whether the policy would allow the City to split parcels.

Director of Community Development Molloy Previsich said it is important to emphasize that this policy relates to expanding the urban service area as Measure C and prior measures addressed the opportunity. Even if there is more than a 5-year supply of residential land, you can extend the urban service area if it meets the desirable infill criteria. She said that Measure C and ordinances allows the Council to establish the criteria for what is desirable infill. She clarified that this policy is where the Council expands upon and creates the criteria that is supposed to match up with Measure P/C. She said that the policy makes it more stringent; an unintended occurrence. Staff is suggesting that the policy be refined and updated so that it is clear that it is still consistent with Measure C. She said that this policy relates to whether property can meet the desirable infill criteria to expand the urban service area, and not related to the urban limit line. Staff is recommending the policy be amended so that it will be less subject to interpretation by providing clarification, and defining terms better so that it is clear that the City has a policy in place that is consistent with Measure C that implements it.

Council Member Sellers stated that he was comfortable with the recommended changes because it is the right thing to do as it gives the City the opportunity to preserve open space and do those things that everyone in the community would like to see take place. He was comfortable moving forward this evening.

Mayor Kennedy said that the proposed language identified by staff is consistent with Measure C, and was supportive of making these policy changes.

Action: *On a motion by Council Member Tate and seconded by Council Member Sellers, the City Council, on a 4-0 vote with Council Member Carr absent, **Approved** the Amendments to the Policy by minute action.*

City Council Action

OTHER BUSINESS (continued)

24. FRIENDS OF THE MORGAN HILL LIBRARY “NAMING OPPORTUNITIES” FOR FUNDRAISING CAMPAIGN

City Manager Tewes informed the Council that it has a request from the Friends of the Morgan Hill Library. Under the Council’s donation policy, it would be appropriate for the Council to concur with their recommendation.

Mayor Kennedy opened the floor to public comment.

Carol O’Hare informed the Council that the Friends of the Morgan Hill Library are organizing a fundraising campaign for the new library. As part of the fundraising efforts, they would like to be able to offer major donors the opportunity to place their names on a small plaque in areas of the library. She noted that the Council has various funding levels and the areas of the library that would be associated with the naming rights in front of it.

Council Member Sellers did not know whether the naming rights would be associated with naming the benefactor, or limiting the name to the benefactor. He expressed concern that there may be a restriction of free speech by not allowing an individual to name a room. He recommended that a policy be established relating to language that would be allowed on the plaque by a donor.

Ms. O’Hare said that it was her understanding that the plaque would read “In Honor of...” or “By the family of...” She said that the Friends of the Library could establish a policy such that the wording of the plaque would need to be approved by the librarian or the County librarian.

Council Member Sellers said that the Council could be the body that gives final approval of the wording of the plaque.

Ms. O’Hare stated that she would discuss this concern with library staff to determine the appropriate way to develop a policy. She announced that the library ground breaking ceremony is scheduled for Saturday, May 13, 2006 now that additional funding has been approved.

Mayor Kennedy agreed that there should be a veto power or a second approval required on the language that is to be placed on the donor plaque.

No further comments were offered.

Action: *By consensus, the City Council **Directed** The Friends of the Morgan Hill Library regarding Authorizing Room/Area Naming Rights to Potential Donors for the New Public Library, as Part of their Fundraising Campaign as stated above.*

25. CO-SPONSORSHIP REQUEST – COMMUNITY SOLUTIONS

Mayor Kennedy stated that Ms. Molica was in attendance earlier this evening; indicating that she had to leave.

City Manager Tewes stated that from time to time, community organizations request the Council approve tax payer funds to pay for the rental of various facilities. Community Solutions is one of those requests. He noted that their proposal indicates that the event would be open to the public and should not exceed more than 100 attendees.

Mayor Kennedy stated his support of the co-sponsorship request.

Action: *On a motion by Council Member Sellers and seconded by Council Member Grzan, the City Council, on a 4-0 vote with Council Member Carr absent: 1) **Agreed** to Co-Sponsor Community Solutions' Sexual Assault Prevention Program; and 2) **Appropriated** \$255 from the General Fund Reserve to the Community Promotions Budget (010-1220-42248).*

City Manager Tewes indicated that the City receives requests, from time to time, from community organizations to receive tax payer funds for their event charges. He stated that there are two other types of requests: 1) financial support from community organizations for activities that do not require rental fees such as the request from Live Oak High School for grad night; and 2) community-wide festival events. He informed the Council that the Live Oak High School funding request will return to the Council on April 26. Staff will also return with a recommendation for community-wide festivals seeking City support.

26. PERMANENT SKATE PARK – REVISION TO CAPITAL IMPROVEMENT PLAN

Deputy Director of Public Works Struve presented the staff report, identifying an alternative way that the unfunded permanent state park facility could be realized at the indoor recreation site at a lesser cost than the current estimate of \$1-\$1.2 million. He informed the Council that two private donors have contacted him and offered a generous amount of money to add to this project's budget. Should the Council approve the concept this evening, he would work closely with the Youth Advisory Committee to solicit funding. He proposes to have the park designed with a couple of elements missing, and to offer these elements to private donor(s) for completion. Staff recommends Council approval to revise the capital improvement program to indicate a permanent modular element skate park to be located at the indoor recreation center and appropriate Measure C impact funds for the project. He noted that the Council approved an authorizing resolution for the Proposition 12 funding source in 2001. Further, CEQA has been completed as part of the indoor recreation center process.

Mayor Pro Tempore Grzan expressed concern with the location of the skate park as it is close to Little Llagas Creek. He inquired what amenities would be incorporated to allow the skate park to blend in and not heavily impact the creek, the potential linear park, or the restoration of the creek along the area.

Council Member Sellers said that in the review of the indoor recreation center, it was found that the skate park was to be a significant element. At the time of the approval of the skate park concept at the indoor recreation center, the Council felt the skate park would compliment the trail and would get more visibility. The thought was that the skate park would enhance an opportunity for a trail as kids and adults would be using the trail. He felt there was significant space to allow for the skate park.

Mr. Struve informed the Council that he has started preliminary design for the skate park to show the State what the City would like to do in order to secure funding. He stated that the trail has been designed, laid out and will change the configuration of the skate park slightly. There will be access to the park from the trail and from the corner of the parking lot into the park. Therefore, staff has accommodated the skate park and the trail. He informed the Council that he will return with a project schedule soon with the idea of trying to open the skate park at the same time the City opens the indoor recreation center.

Mayor Kennedy indicated that there are individuals that use the hills for BMX bicycles. He requested that the City does not lose sight of the need to replicate some sort of facility for BMX users as well.

Action: *On a motion by Council Member Tate and seconded by Mayor Kennedy, the City Council, on a 4-0 vote with Council Member Carr absent, Appropriated \$65,000 of Measure C Impact Fees from Unappropriated Funds, to be Combined with State Department of Recreation Grant Funding, to Provide a Permanent Skate Park at the Approved Community Indoor Recreation Site.*

27. COMPREHENSIVE IMMIGRATION REFORM (HR4437)

Mayor Kennedy indicated that he requested the Comprehensive Immigration Reform bill to be placed on the agenda for Council action. He said that HR4437 may no longer be the relevant bill. He noted that staff has provided the Council with a copy of the City of San Jose's resolution on the issue and recommended that this be used as a model for comments to be presented.

City Manager Tewes said that HR4437 is the bill passed by the House of Representatives, and that the Senate is reviewing this bill along with other bills. He did not believe that HR4437 will be the vehicle for ultimate legislation, if ultimate legislation is enacted this session.

Council Member Sellers stated that he was supportive of the student effort and their civic engagement as he tends to support their cause. He noted the Council has a long term policy of not weighing in on federal legislation. He stated that he was comfortable with the support of fairness and justice for immigrants and to make the declaration that the Council is supportive and understands that immigrations play a strong role in the community. Further, the Council is supportive of their role and that it is in opposition to any efforts that degrade any of its citizens. However, he did not believe this is a direction the Council should head as the Council finds it inappropriate for others to weigh in on activities that are

within the City's purview, unless there is a direct impact. While this is a national issue, he recommended the City make a declaration of support on the issue, but not weigh in on the legislation as has been the Council's policy.

Council Member Tate felt the issue belongs in another jurisdiction; although sympathetic. He did not know if he could represent the citizens of Morgan Hill on a federal issue, and was not comfortable taking a stand on the issue.

Mayor Kennedy felt that this is an issue that affects many hardworking individuals in this community as well as friends and families of many individuals in the community. He felt the City needs to take a stand as it is an important issue that requires expressing the City's view. Those who are advocating for punitive action will win because cities have not spoken out. He recommended the City take a position along the lines of what Council Member Sellers' suggested; a position that is not specific to a particular piece of legislation; although this is a position he would prefer to take if he had Council support to do so.

Mayor Pro Tempore Grzan stated that he was not sure if he was willing to weigh in against this bill. However, he felt it appropriate for the Council to make a statement in support of the migrant residents in the community. Further, to ask for fair and humane treatment of immigrants and aliens who reside in the community. He felt the City could write supportive language that does not address the specific bill in the hopes of stating something positive, condemning punitive and other measures against any population.

Action: *On a motion by Council Member Sellers and seconded by Mayor Pro Tempore Grzan, the City Council, on a 3-1 vote with Council Member Tate voting no and Council Member Carr absent, **Authorized** the Mayor to Send a Letter outlining the sentiments expressed by the Council above regarding HR4437.*

FUTURE COUNCIL-INITIATED AGENDA ITEMS

No items were identified.

ADJOURNMENT

There being no further business, Mayor/Chairman Kennedy adjourned the meeting at 11:45 p.m.

MINUTES RECORDED AND PREPARED BY:

IRMA TORREZ, CITY CLERK/AGENCY SECRETARY



CITY COUNCIL STAFF REPORT

MEETING DATE: April 19, 2006

GENERAL PLAN AMENDMENT GPA 05-05: CITY OF MORGAN HILL – URBAN LIMIT LINE / GREENBELT STUDY IMPLEMENTATION

RECOMMENDED ACTION:

1. Reconvene / Close Public Hearing
2. Approve Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program
3. Adopt Resolution approving General Plan Amendments

EXECUTIVE SUMMARY: This item was first considered by the City Council at its April 5 meeting. At that meeting, considerable testimony was received regarding the proposed amendments and the draft Mitigated Negative Declaration prepared for them. At the conclusion of the public testimony, the Council discussed the proposed amendments, asked staff to provide additional information regarding some aspects of the amendments and continued the hearing to this date.

Attached are a number of documents divided into four sections which are intended to assist the Council in its deliberations regarding this application. First is a supplemental staff report that provides information requested by the Council and responses to new comments received regarding the proposed amendments.

Second is the resolution approving the General Plan amendments. Exhibits to the resolution include the specific amendments to the General Plan text and maps. The text and map amendments are consistent with the direction provided by the City Council last June when it reviewed the Advisory Committee Final Report, with two exceptions recommended by the Planning Commission. Those recommendations include reducing the amount of Oak Meadow Plaza land added to the Urban Growth Boundary (UGB) from 20 to 19 acres and adding approximately 6 acres on the south side of Spring Ave. east of DeWitt Ave. to the UGB.

Third is the Mitigated Negative Declaration (MND) which identifies the potential impacts and mitigation measures associated with approval of the draft General Plan amendments. This document also serves as the environmental document for the requested Oak Meadow Plaza and Black Rock applications (also on this agenda). Included in this section is also the Mitigation Monitoring and Reporting Program that identifies the time frame and responsibility for carrying out the mitigation measures. In addition, this section includes a memo from EIP, the environmental consulting firm that prepared the draft Mitigated Negative Declaration, addressing comments received at the April 4 Council regarding the adequacy of the MND. The full initial study on which the MND is based was provided to Council members at the April 5 meeting.

The fourth section includes past Staff Reports the Planning Commission and City Council regarding the proposed amendments and copies of previously reviewed public comments, along with Staff and consultant responses. These documents are provided for Council reference.

Outstanding issues that have been raised at the public hearings include the following: 1. The need for, density of, and impacts resulting from adding the Oak Meadow Plaza property to the UGB and designating it for residential use, 2. A request to include two parcels on DeWitt Ave. and one parcel near Spring Ave. within the ULL and UGB, and 3. A request to move the ULL from Hill Rd. east to the base of the foothills.

FISCAL IMPACT: No budget adjustment required.

Attachments:

1. Supplemental Staff Report
2. Resolution of Approval with attached Exhibits
3. Mitigated Negative Declaration, MMRP and Response Letter
4. Past Staff Reports, Comment Letters and Response Letters

Agenda Item #13

Prepared By:

Project Planner

Approved By:

**Community
Development Director**

Submitted By:

City Manager



Memorandum

Date: April 19, 2006
To: City Manager
From: Community Development Department
Subject: GENERAL PLAN AMENDMENT GPA 05-05: CITY OF MORGAN HILL – URBAN LIMIT LINE / GREENBELT STUDY IMPLEMENTATION

This memo is intended to provide additional information requested by the City Council at the April 5 meeting regarding this application. In addition, the memo provides responses, where necessary, to written and oral comments provided at or after that meeting.

Amendment to Action 3.4: At the April 5 meeting, Council members requested staff consider alternative language for Action 3.4 of the Community Development Element that would decrease the frequency at which the Urban Growth Boundary would be amended and would require the concepts of Smart Growth be incorporated into the analysis of future land needs. Following is a revision to that Action that incorporates those requests. The modifications would result in the deletion of current Action 3.5 that was previously proposed to be combined with Action 3.4. The revisions are shown both in strike-out / underlined form and in final form, if adopted.

3.4 Evaluate future proposals to modify the UGB according to established criteria, findings or prerequisites, ~~particularly considering stability and dependability factors,~~ such as the need to maintain a 20-year supply on average of available land for accommodating projected growth. The determination of the amount of land needed for a 20-year supply should be based on past and assumed rates of growth and take into consideration changes in development practices including Smart Growth principles. The UGB should only be expanded for those general land use categories (i.e. residential, commercial, industrial) for which less than a 20-year supply remains. ~~To ensure coordination between relevant land use planning issues and growth management considerations, d~~Do not reconsider the UGB location more frequently than in conjunction with a comprehensive City General Plan Update every 10 years or so. ~~unless triggered by the established criteria, findings, or prerequisites.~~ Reevaluation of the UGB location may be necessary in conjunction with implementation of Phase 2 of the Urban Limit Line / Greenbelt Study regarding land use in the Southeast Quadrant. ~~the greenbelt study to be undertaken in 2002.~~

3.4 Evaluate future proposals to modify the UGB according to established criteria, findings or prerequisites, such as the need to maintain a 20-year supply on average of available land for accommodating projected growth. The determination of the amount of land needed for a 20-year supply should be based on past and assumed rates of growth and take into consideration changes in development practices including Smart Growth principles. The UGB should only be expanded for those general land use categories (i.e. residential, commercial, industrial) for which less than a 20-year supply

remains. Do not reconsider the UGB location more frequently than in conjunction with a comprehensive City General Plan Update every 10 years or so. Reevaluation of the UGB location may be necessary in conjunction with implementation of Phase 2 of the Urban Limit Line / Greenbelt Study regarding land use in the Southeast Quadrant.

~~3.5 Compare actual and assumed growth rates every five years and re-establish a 20 to 25 year supply whenever the available land supply within the existing long term urban growth boundary is less than 20 years worth of developable land.~~

Time Line for Development of Properties Added to the UGB: The Council requested that a time line be provided for regarding the development process for the Oak Meadow Plaza and Black Rock properties, should the City Council approve all of their related requests. Those steps are outlined below:

1. Request LAFCO approval of expansion of the Urban Service Area. This county-wide agency has final decision-making authority over expansion of the USA and subsequent annexations. Consideration of the proposed expansions could occur this fall. Annexation could be completed by the end of this year.
2. Apply for building allotments/permits through the Residential Development Control System (RDCS). This is a competitive process in which a property owner/developer submits subdivision, building and landscape plans for development of the property. Projects are evaluated and scored against many criteria and the highest scoring projects receive allocations/permits. Approximately 50 percent of the competing projects are successful in any given competition.
 - a. If a measure is placed before the voters in November that either exempts Downtown projects from the RDCS competition or establishes additional permits for that area, a competition could be held in March 2008 to award approximately 100 permits for the 2009 – 2010 fiscal year.
 - b. If a measure is not placed before the voters in November or is defeated in November, a competition could be held in March 2008 to award approximately 250 permits for the 2010-2011 fiscal year.
3. Apply for Subdivision approval. This process could occur at any time after receipt of allotments/permits through the RDCS. This process requires public hearings and approval by the City Planning Commission. Normal subdivision processing time is four to six months.
4. Apply for Site and Architectural Review approval. This process would occur subsequent to the Planning Commission's approval of the subdivision. The process requires public hearings and approval by the Architectural and Site Review Board. Normal processing time for Architectural and Site Development plans is two to four months.

This time line represents the shortest period of time by which either property would be able to develop. It is not uncommon for projects to compete multiple times in the RDCS competition before receiving allocations/permits for development.

Density of Oak Meadow Plaza Development: A number of Council members indicated that the density of development of the Oak Meadow Plaza property may be too high and asked Staff to evaluate the possibility of a lower density development of the property with feathering of lot sizes west from Sunset Rd. The General Plan designation proposed for the property is Single Family Low. This General Plan designation provides for residential densities ranging from one to three dwelling units per acre. The General Plan designation may be implemented by applying either the R-1 12,000 zoning district, which allows three units per acre (and is proposed by this application), or the R-1 20,000 zoning district, which allows two units per acre. The Council could approve R-1 20,000 zoning in lieu of R-1 12,000 zoning for the property. This would reduce the number of lots on the property from approximately 60 to between 25 to 35. Feathering of lot sizes could be required by application of the Residential Planned Development Overlay (RPD) to the property, in addition to the primary R-1 12,000 or R-1 20,000 zoning. (The overlay is proposed to be applied to the Black Rock property for this very purpose.)

Inclusion of DeWitt Parcels Within ULL and UGB: The owners of two 2.5-acre parcels south of the West Hills Church area have requested their properties be included within the ULL and UGB. The attached map shows the location of those parcels and the location of sewer and water service to the area. Council members asked that additional information be provided relative to that request.

The parcels are unincorporated and outside of the City's UGB. Both parcels are developed with single family homes. Staff is unaware of any current problems with the wells or septic systems on the parcels. As can be seen on the attached map, water service is provided to the adjacent properties to the north (shown by a "W" on the map). An 8-inch water line is located in DeWitt Ave. in front of the subject properties. Sewer service is provided to the West Hills Community Church office and sanctuary from a line in the driveway accessing the sanctuary (shown by a "S" on the map). No sewer line exists south of that driveway. The nearest storm drain line to the subject parcels is located in Spring Ave. approximately a quarter mile to the east. Fire response time to the properties is between 5 and 6 minutes from the El Toro and CDF stations.

Should the Council include the parcels within the ULL and UGB, it is assumed that they would at some time in the future be designated for residential use at a density comparable to that proposed for the West Hills Church area (Residential Estate, one dwelling per acre.) At that density, each of the parcels conceptually could be subdivided, allowing for one additional home on each. However, given the placement of the existing homes on the parcels and the slope on the westerly portions of both parcels, their further development potential may be limited.

The two parcels were not proposed to the Urban Limit Line Advisory Committee to be included within the ULL or UGB because, unlike the adjacent parcels to the north, no services are currently provided to them. The Planning Commission considered the request of the property owners to be included within the boundaries and, on a 4-3 vote is not recommending their inclusion. The majority of the Commission recognized that the properties are on the opposite side of DeWitt from a portion of the Oak Meadow Plaza property that is planned to be preserved by an open space easement. Those Commissioners felt that the potential for additional development on the subject properties would be inappropriate.



Planning and Resource Management for Our Communities and the Environment
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MEMORANDUM

Date: April 12, 2006

To: David Bischoff, Project Manager, City of Morgan Hill

From: John Steere, Sr. Project Manager

Subject: **Responses to Comments on *Morgan Hill Urban Limit Line/Greenbelt Study GPA Draft MND***

Per your request we are furnishing you with an additional set of responses to comments to the Morgan Hill Urban Limit Line/Greenbelt Study GPA Initial Study/Draft Mitigated Negative Declaration (IS/MND). We have reviewed four more comment letters and one oral communication received since our first, March 24, response letter. These additional communications were received from Greenbelt Alliance (both orally and written), Committee for a Green Foothills, LAFCo of Santa Clara County and Bart Hechtman, representing the Black Rock property owners. Our responses address only those items from each correspondence that are relevant to the IS/MND.

1. Conversion of 'Prime Farmland' and 'Farmland of Statewide Importance' within the ULL could result in a significant environmental impact. The commenter, Greenbelt Alliance, makes the point that City is determining with the establishment of an ULL where development will be allowed to go in future years, and contends that conversion of farmland to residential or commercial uses is reasonably foreseeable. Therefore, the commenter believes that the loss of farmland associated with implementation of Part A should be assessed and mitigated at the programmatic phase of the environmental and planning process. We contend that the reasonably foreseeable potential for conversion of ULL lands to urbanization is presented by the three ULL sub areas in Part B of the GPA, but not Part A. One of them, the Black Rock Property, contains about 7.75 acres of Prime Farmland, which is proposed to be protected at 1:1 basis via "Mitigation Measure B.1 -- Establish a Conservation Easement for Prime Farmlands on Black Rock if they are deemed economically viable." (page 28 of the Draft IS/MND). Neither of the other two sub areas contains 'Prime Farmland' or 'Farmland of Statewide Importance' but rather represent lands suitable for grazing, which is not deemed a significant impact under

CEQA. The rest of the ULL has no reasonably foreseen development – where “reasonably foreseen” is defined (via CEQA Guidelines) as a proposal for a change in zoning or general plan designation. That is, CEQA does not require impact analysis or mitigation of unforeseen or speculative development – i.e. where individual projects have not been identified or proposed. The remainder, or the ULL in Part A, fits this category, as no projects have been identified or proposals made for development. In addition, only the northeast corner of the ULL meets the Prime Farmland/Farmland of Statewide importance criteria. Existing City of Morgan Hill policies in its Open Space and Conservation Element that seek to protect agricultural lands adequately protects these areas. In light of all of these factors and existing policies, we do not believe that additional mitigation measures are needed or warranted.

2. Issue of whether Development is Reasonably Foreseeable in the ULL: While we can appreciate the Committee of Green Foothills’ (Committee) concern over the potential loss of farmland around Morgan Hill and its consequent belief that development is reasonably foreseeable throughout the ULL— from a CEQA standpoint, this is not the case. As discussed in Response to Comment #1 above, “reasonably foreseeable” development from a CEQA perspective cannot be speculative but rather associated with proposed or identified projects. Up to three potential projects that are reasonably foreseeable are identified in Part B of the GPA for the ULL and mitigation has been adequately identified for the potentially significant impact where Prime Farmland is present. For Part A, no development is reasonably foreseen as no projects have been proposed for areas within these portions of the ULL.
3. Cumulative Impacts of Designation of the ULL: There are no identified projects beyond the three described in Part B of the ULL GPA which are appropriately addressed in the Draft IS/MND. However, there is no basis within CEQA to evaluate additional cumulative impacts for Part A of the ULL designation in the absence of other projects upon which to base such an analysis. Just as the individual projects have not been identified or proposed within Part A of the ULL, and are thus not reasonably foreseeable, therefore cumulative impact analysis is also not foreseeable. See also the definition of “reasonably foreseeable” addressed in Response to Comment 1 above.
4. Relationship of Project to LAFCo USA Amendment Policies #3 to 8: Per LAFCo’s request, the following addresses the relevance of said policies to the proposed inclusion of two sub-areas of Part B into the Urban Service Area.

#3. Local and Regional Impact Factors: A number of the noted factors are evaluated in the Initial Study, particularly in the Land Use, Utilities and Public Services sub-sections.

Regarding the provision of public facilities and services, the City’s Desirable Infill Policy

only allows for expansions of the Urban Service Area that do not unduly burden the provision of services to areas currently within the USA. Specifically, all areas proposed for addition must be eligible to receive a passing score under Part 1 of the City's Residential Development Control System. That system evaluates the City's and other agencies' ability to provide schools, parks, streets, water service, sewer service, drainage and police and fire services to the area proposed to be added to the USA. A minimum of 7.5 out of a possible 12 points are required for a passing score in this evaluation. The Oak Meadow Plaza and Black Rock properties scored 9 and 8 points, respectively, in this evaluation.

#4. Consider applicable service reviews. The designation of the ULL will not undermine adopted urban service area review determinations, as it does not conflict with them. City service providers did not identify any conflicts or potential USA undermining.

#5. USA expansion and infill. The two sub-areas of Part B of the ULL GPA meet the City's policy for Desirable Infill. The Oak Meadow Plaza property is adjacent to the city limits on one side and within a quarter mile of the city limits on two other sides. It is within a half mile of major shopping areas, parks and an elementary school.

The Black Rock property is located at the intersection of two arterial streets. It is adjacent to the city limits on two sides. It is bounded by urban residential subdivisions on the east and rural residential development on the south and west.

#6. Discourage USA expansions that include agricultural land or other open space land: Part B of the ULL GPA includes 7.5 acres of Prime Farmland for which a conservation easement is proposed as mitigation (Mitigation Measure B.1). Further, expansion of the Urban Service Area to include 20 acres of the Oak Meadow Plaza property (which is not Prime Farmland) will result in the permanent preservation of approximately 84 acres of open space that has significant scenic value.

#7. Consideration of whether USA conversion will affect agricultural resources of the County. As discussed in the Agricultural Resources Subsection on pages 43 to 44 of the Draft

IS/MND, the Oak Meadow Plaza property is not Prime Farmland and is used for grazing. It is adjacent to two residential subdivisions on the east. The permanent open space easements proposed for this area would ensure no additional conversion of grazing land would occur.

The Black Rock property is a defunct Christmas tree farm and is not under not active cultivation or agricultural production. Adjoining lands are urban and rural residential on three sides.

Given the types of current uses for these properties, their size and adjacent land uses, their conversion will not have a significant effect on the agricultural resources of the County.

#8. Conversion of agricultural and open space lands and provision of mitigation. To reiterate what was previously discussed under Comment 1: An adequate mitigation is proposed for the one area of Prime Farmlands in Part B of the ULL GPA: “Mitigation Measure B.1 -- Establish a Conservation Easement for Prime Farmlands on the Black Rock property if it is deemed economically viable.” (page 28 of the Draft IS/MND). The other sub-area proposed to be included within the USA does not contain ‘Prime Farmland’ or ‘Farmland of Statewide Importance’ but rather represent lands used for light grazing. Eighty-four acres of this property are proposed to be permanently protected by recordation of conservation easements over them.

5. Requested Revision of Mitigation Measure D.2, regarding establishment of a riparian buffer zone.

The commenter requested deletion of references to the conservation easement for the buffer zone not being part of the residential parcel and that 50 feet be the minimum width. We have revised, in consultation with the City, the measure to read as follows (Deletions shown): “As part of the subdivision application process for Black Rock and pursuant to Policy 5b of the Morgan Hill General Plan, and Sections 1600 to 1616 of the Fish and Game Code of California, development on this property shall be designed such that effects to the riparian community along Llagas Creek are avoided. This shall include the establishment of an appropriate buffer

zone between the creek and the nearest development. This buffer zone shall be designated as a conservation easement. No hardscape development shall be allowed within this buffer zone. The width of this buffer zone shall be determined in consultation with the City and the CDFG.

6. Agricultural Resources: Prime Farmland. The commenter requested additional information to bolster the case for the designation of a portion of the Black Rock Property as Prime Farmland. We contacted the State's Department of Conservation (DOC), which is the responsible agency for designation of farmland. The DOC prepares detailed Prime Farmland maps on a bi-annual basis based on aerial photograph interpretation, soils maps and soil characteristics supplemented by the presence of irrigation. The identification of a 7.75 acre portion of the site as Prime Farmland was based on the 2002-2004 "Farmland Mapping and Monitoring Program" of the DOC, which is the most current period. We confirmed with Larelle Burkham, staff to DOC that this area within Morgan Hill is, in fact, still deemed Prime Farmland even if it may not have been irrigated recently.

We did pose to Molly Penberth, Manager of the DOC, the commenter's questions of what constitutes tree production, and whether it includes maintaining trees or just planting them in the ground (i.e., by what "facts did the DOC conclude that this use constitutes irrigated agricultural production). She replied in an email communication from March 30, 2006: "The land use mapping is conducted primarily through (digital) air photo interpretation, in conjunction with ancillary data sets such as the Department of Water Resources surveys, comments from local agencies, and site inspection in questionable situations. Pattern/color recognition is what differentiates various land use types. Orchard/tree crops need to have reached a certain size to be visible in the imagery, which implies some sort of management. While it is not possible for us to inspect every grove, the vast majority of tree crops in CA are irrigated. Without additional information on irrigation status, we assume water is applied to perennial crops in order to maintain the uniformity in pattern/color expected for that crop. In regard to the question about sales records, this is not a component of the Important Farmland mapping criteria. Depending on market conditions, crops can be grown and not harvested or not sold in any given year. Because the program's focus is on the land resource/use, economics are not considered. If the land in question has not been maintained for some time, the imagery would start to indicate that. We do start a 'flagging' process

once we see indicators of decline.” However, the area has not been flagged within the most recent mapping period (2002-2004), according to Ms. Burkham.

7. Jurisdictional wetlands, wetlands under the Army Corps of Engineers’ (USACE) jurisdiction, are subject to the Clean Water Act, Section 404, regarding wetland fill. Thus, jurisdictional wetlands are federally regulated and mitigation requiring adherence to these federal regulations is required.

Wetlands which do not meet USACE requirements may qualify as waters of the state, in which case these wetlands would be subject to state policies regarding wetlands. However, these state policies are not regulations and were thus not included as mitigation.

However, it has been EIP’s practice to include language recognizing these state policies through mitigation measures. As such, Mitigation Measures D.3.a and D.3.b have been revised to include language regarding state wetland policies.

RESOLUTION NO.

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
MORGAN HILL APPROVING GENERAL PLAN AMENDMENT
APPLICATION GPA-05-05: CITY OF MORGAN HILL URBAN
LIMIT LINE/GREENBELT STUDY GENERAL PLAN
AMENDMENTS**

WHEREAS, such request was considered by the City Council at their regular meetings of April 5 and 19, 2006, at which time the City Council approved General Plan Amendment Application GPA-05-05; and

WHEREAS, testimony received at a duly-noticed public hearing, along with exhibits and drawings and other materials have been considered in the review process.

**NOW, THEREFORE, THE MORGAN HILL CITY COUNCIL DOES RESOLVE
AS FOLLOWS:**

SECTION 1. The approved project is consistent with the Zoning Ordinance and with other Elements of the General Plan.

SECTION 2. An environmental initial study has been prepared for this application, and is found to be complete, correct and in substantial compliance with the requirements of the California Environmental Quality Act. A Mitigated Negative Declaration will be filed. A Mitigation Monitoring and Reporting Program has been developed for the required mitigations measures and is hereby approved.

SECTION 3. The General Plan Amendment shown in attached Exhibits A, B, and C, are approved.

PASSED AND ADOPTED by the City Council of Morgan Hill at a Regular Meeting held on the 19th Day of April, 2006 by the following vote.

AYES:	COUNCIL MEMBERS:
NOES:	COUNCIL MEMBERS:
ABSTAIN:	COUNCIL MEMBERS:
ABSENT:	COUNCIL MEMBERS:

🦉 CERTIFICATION 🦉

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Resolution No. , adopted by the City Council at a Regular Meeting held on April 19, 2006.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

IRMA TORREZ, City Clerk

Exhibit A

Urban Limit Line / Greenbelt Study General Plan Amendments

1. Amend the General Plan Glossary to add definitions for Greenbelt and Urban Limit Line and to amend the definitions for Sphere of Influence and Urban Service Area, as follows:

Greenbelt: The purpose of areas shown as “Greenbelt” on the Greenbelt Diagram is to help physically define the City in terms of distinguishing between rural and urban character, to identify areas where the City and County intend to focus efforts to minimize the impacts of rural development, and to identify selected locations where acquisition of open space easements or land in fee title will be pursued by the City or other public agencies. The Greenbelt includes public spaces and private properties that have importance for one or more environmental reasons, including visual prominence, earthquake hazard-related limitations, and steep slopes. The Greenbelt areas are non-urban lands which are located primarily in the unincorporated County area, outside of the City. Identification as Greenbelt does not change the development potential or restrictions imposed under applicable Santa Clara County or City development policies and regulations.

Sphere of Influence: The possible ~~probable~~ ultimate physical boundaries, ~~and~~ service area or area of influence of the City, as determined by LAFCO. Not all land within the Sphere of Influence is intended for future urbanization. Some areas within the Sphere may receive some, but not full urban services, by the City. All land within the Sphere bears relation to the City’s planning activities.

Urban Limit Line: The Urban Limit Line (ULL) separates urban and future urban areas from rural areas. The ULL is a longer-term version of the Urban Growth Boundary (UGB) and is intended to reflect the City’s long term policy for growth of Morgan Hill, beyond the twenty-year timeframe of the UGB. The purpose of an ULL is to encourage more efficient growth patterns, minimize public costs, and protect environmental resources. Some, but not all, of the land outside the ULL has been identified as Greenbelt.

Urban Service Area: The area within the ~~Sphere of Influence~~ Urban Growth Boundary where utilities such as gas, water, sewer, and electricity, and public services such as police, fire, schools, and parks and recreation are and will be provided.

2. Amend the introductory paragraphs to the Urban Growth Boundary section of the Community Development Element to read as follows:

Urban Growth Boundary (UGB) and Urban Limit Line (ULL)

In 1996 the City Council adopted a long-term Urban Growth Boundary (UGB), which differentiates land within the Sphere of Influence intended for future urbanization from land intended to remain rural and unincorporated for the next 20 years. Prior to urbanization, large-parcel uses, including farming, are encouraged on land inside the UGB but outside the city. Existing and limited new rural residential uses as well as agricultural and open space uses are appropriate for preserved on all lands outside of the UGB.

The Urban Limit Line (ULL) was established as part of the Urban Limit Line / Greenbelt Study and includes lands which may be needed for City growth beyond the next 20 years. Establishment of this line was necessary to ensure that areas which are planned to become part of the City's Greenbelt will not be needed for future City growth. Some, but not all, of the land outside the ULL has been identified as "Greenbelt" areas. There is no timeline for adding unincorporated land that is inside the ULL to the City. Some unincorporated land may not be added to the City for more than three decades. The Greenbelt is described in the Greenbelt section of the Open Space and Conservation Element and in the Community Development Element.

~~Agriculture has been important to the city as an industry and employment generator throughout its history, in addition to contributing to the city's rural character. Agricultural development policies intend to retain the historic agricultural character of lands surrounding Morgan Hill, and to minimize conflicts between urban development and agricultural uses. (This paragraph to be moved to the Agriculture section of the Open Space and Conservation Element)~~

3. Amend Goal 3 of the Community Development Element to read as follows:

Goal 3. A long-term Urban Growth Boundary and Urban Limit Line around the city

4. Amend Policy 3a. of the Community Development Element to read as follows:

3a. The Urban Growth Boundary (UGB) should be maintained for the City of Morgan Hill, in order to: a) ~~identify~~ differentiate lands within the Morgan Hill ~~Urban Limit Line Sphere of Influence (SOI) which are intended for future urbanization in the future from those intended to remain rural and unincorporated over an approximately 20-year time period;~~ b) provide greater stability of future land use patterns than is currently provided by the existing "short term" urban service area (USA) boundaries; c) indicate the preferred extent and direction of the city's future urban expansion and capital improvements planning, consistent

with the cCity Ggeneral Pplan; d) encourage compact and concentric urban growth and development; e) promote fiscal responsibility, cost-effective service delivery, and the City's ability to plan for and adequately maintain urban services over time; f) provide for an adequate land supply necessary for sustainable economic growth; g) compensate for the impacts of the city's historical patterns of urban growth; h) achieve greater compatibility of land use planning and decision-making for lands of mutual interest to the City and County; and i) provide additional certainty to rural landowners needed for purposes of planning investments and maintaining viable agricultural operations.

5. Amend Policy 3b.of the Community Development Element to read as follows:

3b. Allow Urban Service Area expansions only within the long-term UGB and for lands with urban designations; the timing and extent of Urban Service Area expansion shall remain consistent with established Urban Service Area expansion policies and ordinances. (Note: Residential Estate and Single Family Low lands outside the UGB south of Watsonville Road are anticipated to provide needed residential development beyond the timeframe of this General Plan update, ~~while maintaining the option of establishing a greenbelt in that area.~~)

6. Add Policies 3d. and 3e. to the Community Development Element to read as follows:

3d. Establish and maintain an Urban Limit Line (ULL) around the City to serve as a longer term version of the Urban Growth Boundary and define the inner limits of potential Greenbelt areas.

3e. The Urban Limit Line should be continuous around the City and located outside of or coterminous with the city limits and Urban Growth Boundary. Greenbelt areas should be located outside of the ULL. The ULL may be located within the city limits so that parks or other incorporated, City-designated open space land at the fringe of the community may be included within the Greenbelt.

7. Amend Actions 3.4 and 3.5 to combine them into a single action to read as follows. Renumber Action 3.6, accordingly.

3.4 Evaluate future proposals to modify the UGB according to established criteria, findings or prerequisites, ~~particularly considering stability and dependability factors,~~ such as the need to maintain a 20-year supply on average of available land for accommodating projected growth. ~~To ensure coordination between relevant land use planning issues and growth management considerations, do not reconsider the UGB location more frequently than in conjunction with a comprehensive City General Plan Update every 10 years or so, unless triggered by the established criteria, findings, or prerequisites.~~ Reevaluation of the UGB location may be necessary in conjunction with implementation of Phase 2 of the Urban Limit Line / Greenbelt Study regarding land use in the Southeast Quadrant. greenbelt study to be undertaken in 2002. 3.5 Compare actual and assumed growth rates for each general land use category (i.e.

residential, commercial, industrial.) every five years and expand the UGB within the ULL to re-establish a 20 to 25-year supply for any deficient general land use category whenever the available land supply within the existing long term urban growth boundary is less than 20 years worth of developable land.

8. Add Actions 3.6 and 3.7 to the Community Development Element to read as follows:

3.6 Upon completion of the Industrial Lands Market Study and/or planning for long-term use of the area east of Highway 101 and south of San Pedro (the Southeast Quadrant), determine the appropriate location for the Urban Limit Line in that area. Planning for the Southeast Quadrant may occur as part of the next comprehensive General Plan Update.

3.7 When the portion of the Vista de Lomas area that is within the Urban Limit Line is included within the Urban Growth Boundary and planned for development, it should be assigned a General Plan designation which would limit its residential density to one unit per every 2.5 acres.

9. Add Actions 7.4, 7.5 and 7.6 to the Community Development Element to read as follows:

7.4 Future development of the forty-acre parcel on Kruse Ranch Lane north of Dunne Avenue should be located such that environmental impacts, including offsite visual impacts, are minimized. To the extent possible, future development should be clustered and located on the lower portion of the site.

7.5 Consistent with the recommendations of the Urban Limit Line / Greenbelt Study Report, enter into an agreement with the owners of 118 acres of land in the area generally bounded by Sunset, Edmundson and DeWitt which would provide for the following:

- a. Construction of four houses on lots which front of Edmundson Ave.
- b. Construction of one house on the property which fronts on DeWitt Ave.
- c. Expansion of the Urban Growth Boundary to include 20 acres adjacent to Sunset Ave. which would ultimately allow for construction of up to 60 houses, consistent with the “Desirable Infill” policy and criteria.
- d. Recordation of open space easements over approximately 86 acres of the property (most of which is located outside of the City) prohibiting any further development of that area.

7.6 The 18-acre property located at the southwest corner of Santa Teresa Blvd. and Watsonville Road should develop at a density which transitions from minimum parcel sizes of one acre on the southeastern side of the site to minimum parcel sizes of approximately two and one half acres on the southwestern side of the site.

10. Amend the introductory paragraphs to the Edges section of the Community Development Element to read as follows:

Edges

Around much of the City, Greenbelt areas have been identified to define the limits of future urbanization. The character of the limits or edges between urban and rural environments is important to establishing the city's identity and providing residents on either side of the edge with a sense of place. The demarcation from urban to non-urban areas can take two different forms. With a **hard edge**, the urbanized portion of a city ends abruptly, with rural/agricultural lands around it. With a **feathered edge**, development intensities taper off from higher densities in the city interior to lower densities at the edge, creating a transition from urban to rural. Although they can provide appropriate transitions, feathered edges can make gateways difficult to distinguish. In either case, edges form a boundary between "town" and "country" and limit the potential for unwanted urban sprawl.

11. Add Policy 15d to the Community Development Element to read as follows:

15d. Feathering from higher urban densities to lower rural densities should occur within the city limits. Feathering should begin as development nears the Urban Limit Line.

12. Amend Policy 18d of the Community Development Element to read as follows:

18d. Location and development of parks shall be coordinated with the Open Space and Conservation Element of the General Plan to maximize opportunities for resource protection, Greenbelt creation, environmental education, and passive recreational use of open space where appropriate.

13. Add Policy 18v to the Community Development Element to read as follows:

18v. Where possible, coordinate the location of future parks with Greenbelt areas so as to maximize public open space and recreational benefits.

14. Add Action 18.24 to the Community Development Element to read as follows:

18.24 Investigate the potential for development of hiking trails on the open space/greenbelt areas of El Toro.

15. Amend the Greenbelt section of the Open Space and Conservation Element to read as follows:

Greenbelt

Maintaining the identity of Morgan Hill by providing a non-urban physical separation from San Jose and San Martin has long been important to city residents. ~~An urban growth boundary established in 1996 to slow outward growth~~

~~of the City and protect its fringe areas is an important first step toward providing that separation. This Plan proposes the logical next step: identification of a specific location for a permanent greenbelt around the City.~~

The purpose of the Greenbelt is to help physically define the City and separate it from San Jose and San Martin. The Greenbelt includes both public open space and private properties. Hillside areas within the Greenbelt include those that are the most visually prominent, as viewed from the valley floor. Edges of several Greenbelt areas are at elevations that reflect the beginning of hillside environments. Greenbelt areas on the valley floor include Silveira Park, Malaguerra Park and the Coyote Creek Parkway.

Areas outside of the Urban Limit Line that have been substantially subdivided into parcels smaller than 10 acres generally are not included in the identified Greenbelt areas. These areas are primarily located on the valley floor, outside the city limits. Many of the parcels in these areas are developed or are eligible for construction of single-family homes. The existing and potential density of development in these areas minimize their value as Greenbelt areas. However, the rural character of these areas does help to define and distinguish the urbanized city area from other urban and rural county areas. It is desirable for the City and County to coordinate land use planning activities in these areas.

Identification of areas as “Greenbelt” does not change the development potential or restrictions imposed under Santa Clara County development policies and regulations. Land uses within “Greenbelt” areas would continue to be agriculture, limited new residential uses, parks and other open space with minimal improvements. The City would work with the County to minimize off site visual impacts of new development. In addition, the Greenbelt is intended to identify areas where a targeted program of acquisition of open space easements or fee title to land may occur.

Identified “Greenbelt” areas are shown on Map 6.

Goal 2. A stable, long-term city boundary reinforced by a greenbelt

Policies regarding Creation of the Greenbelt

2a. Establish and maintain a greenbelt to demarcate the urbanized area of the city from surrounding non-urbanized lands.

2be. Greenbelt areas should ~~define~~ distinguish the urban area of Morgan Hill from San Jose and San Martin ~~adjacent cities~~. The northern and southern boundaries of the city shall be defined by greenbelts to maintain community identity. (SCJAP 16.13)

2c. Protect views of hillsides, ridgelines and prominent natural features surrounding the City. These features help define the City's historic rural character, sense of place, image and identity.

2d. In the area between Monterey Road and Highway 101 at the northern Sphere of Influence line, existing urban development precludes the City from providing a non-urban buffer between it and San Jose. The San Jose Coyote Valley Greenbelt, which includes the area south of Palm Ave. and north of the Morgan Hill city limits and is located within the San Jose Sphere of Influence, will provide the non-urban buffer for that area.

2e. Pursue a targeted program for acquisition of Greenbelt land in fee title or conservation easements. Properties that are most threatened with development which, if acquired, would provide significant public benefit should receive the highest priority for acquisition and/or establishment of easement.

2f. Acquire undeveloped parcels as a first priority.

2g. Acquire easements on properties using an approach that would maintain some appropriate development potential, maximize the use of available funds for greenbelt and open space protection, and minimize land management and maintenance costs.

2h. Acquire land in fee title when the City's objectives include allowing public access to the site for recreational or related activities.

2i. Acquire properties and easements on a "willing seller" basis. Eminent domain will not be used.

Policies regarding Location of the Greenbelt

2l. Locate the Greenbelt outside of the Urban Limit Line, where practical.

2m. Greenbelt areas should include steep hillside areas and areas with other severe geologic or environmental constraints which are located outside of the ULL.

2n. Greenbelt areas should include land designated Open Space in the General Plan and located on the fringe of the community.

2o. Greenbelt areas should not include unincorporated areas with residential development on lots of less than 10 acres, except in unusual circumstances.

Policies regarding Uses within the Greenbelt

2qb. Support County policies of prohibiting commercial and industrial uses (excluding agricultural industry) in the unincorporated and greenbelt areas surrounding the city.

2rd. The land uses appropriate within a greenbelt, ~~as determined by the South County Joint Planning Advisory Committee~~, might include: a) low-density residential development on lots 10 acres or more in size (i.e. one unit per 20 acres); b) public parks and recreational areas; c) privately operated recreation areas (e.g., golf courses and riding stables); and, d) agriculture. (SCJAP 16.16)

2s. Within Greenbelt areas, parks and other designated open spaces, scenic/open space easements, golf courses, low intensity public facilities involving minimal permanent improvements and agricultural activities are appropriate uses. Existing residential may remain and new residential uses should be located and designed to have minimal visual and other environmental impacts.

2t. Greenbelt areas which are privately owned are not intended for public recreational use.

Actions regarding Creation of the Greenbelt

~~2.1 Work with the County and San Jose to develop a plan for a greenbelt along the expected edge of the urbanized area of the city within two years of adoption of this General Plan action. (completed)~~

~~2.2 The Greenbelt Plan shall include a comprehensive planning effort to evaluate appropriate land uses in the rural County areas surrounding the city. The Plan shall specifically evaluate the potential for an industrial park southeast of the Tennant Avenue/Highway 101 interchange. (completed)~~

~~2.3 In conjunction with the Greenbelt Plan, investigate the need to modify the UGB and/or SOI to support establishment of a permanent greenbelt. (completed)~~

2.14 Use a variety of tools to create a greenbelt, including public acquisition, land use regulation, urban development policy, economic incentives to landowners, open space easements, transfer of development rights, planned cluster development, assessment districts, and dedication of additional lands upon development.

2.2 Develop a comprehensive program for monitoring land uses and acquiring and maintaining certain Greenbelt areas. Components of the program should include staffing and/or contract resources, identification of and securing funding for acquisition of easements and fee title to property, and administration of the program.

~~2.8 Work with Gilroy and Santa Clara County to establish and preserve a defined, permanent greenbelt between Morgan Hill and Gilroy, containing such land uses as low density rural residential, agricultural activities, and recreation areas. (SCJAP 16.15) (completed)~~

2.39 Work with San Jose and Santa Clara County to establish and preserve a defined, permanent greenbelt between Morgan Hill and San Jose in the southern Coyote Valley, comprised of agricultural uses, rural estates, and the Coyote Park chain. (SCJAP 16.13 & 16.14)

~~2.410~~ Work with San Jose, Gilroy and Santa Clara County to implement plans for the preservation of greenbelts between the cities. (SCJAP 16.22)

~~2.544~~ Work with San Jose, Gilroy and the County to identify and establish a viable source of funding for acquiring and developing regional parks, pathways, and open space. (SCJAP 16.22)

2.6 The highest priority areas for Greenbelt preservation include the east side of El Toro, the Edmundson/DeWitt/Sunset area, and the foothills on the eastern side of the valley north of Dunne Ave.

2.7 The second highest priority areas for Greenbelt preservation include the west side of El Toro and the hill area south of Edmundson.

2.8 The third highest priority areas for Greenbelt preservation include the west side of Paradise Valley, the Baird Ranch (north of Llagas Road), and the Boy's Ranch/Coyote Creek Park area.

2.9 When acquiring fee title or easements, offer property owners fair market value using industry standard appraisal techniques.

Actions regarding Location of the Greenbelt

~~2.12 The Greenbelt plan shall include an evaluation of the prominent hillsides bounded by Edmundson Avenue, DeWitt Avenue, Spring Street and DelMonte/Sunset Drive and properties on the eastern face of El Toro and include strategies for the preservation of these important visual resources. (completed)~~

2.10 The Greenbelt on El Toro should include all lands recommended for open space protection by Action 4.1 of this Element.

2.11 The Greenbelt on the western side of Paradise Valley should include land at or above the 490-foot elevation contour line.

2.12 The Greenbelt for the hill area south of Edmundson Avenue and north of Sycamore Avenue should include land that is outside the current Urban Growth Boundary and at or above the 490-foot elevation contour line.

2.13 Maintain the Boy's Ranch within the Urban Service Area in recognition of the services it is provided, while also identifying it as a Greenbelt area.

2.14 Silveira Park and the City-owned lands along Llagas Creek to the west should be included with the Greenbelt.

Actions regarding Uses within the Greenbelt

~~2.5 Encourage the County to retain low intensity plan designations and zoning in all lands outside of the Urban Services Area boundary until annexation or extension of facilities/services is planned. (Redundant, see Action 2.15, below)~~

~~2.6 Recommend agricultural uses, rural estate zoning and park uses for County projects adjacent to the UGB. (Redundant, see Action 2.15, below)~~

~~2.157 Support the County maintaining low densities and large minimum lot size requirements for undeveloped areas not planned for urbanization or and lands identified inclusion in a as Greenbelt.~~

2.16 Actively work with the County to find mechanisms that would provide the City with greater influence over development in the unincorporated areas of the City's Sphere of Influence.

2.17 Within City hillside Greenbelt areas, new development should be subject to a site and design review process that encourages minimizing environmental impacts including minimizing the amount of grading and encouraging location of structures in areas where they are least visible from the valley floor.

2.18 The basic Santa Clara County development review processes should be evaluated, updated and strengthened to achieve greater restriction on visibility, from the valley floor and major transportation corridors, of structures in the hillside Greenbelt areas. This updated review process should result in a minimal review process for structures that are not visible from the valley floor and major transportation corridors, and an extensive review process for structures that are visible.

16. Add a new Map 6 Greenbelt Areas, a copy of which follows as Attachment A. Renumber existing Maps 6, 7, and 8 and textual references to them.

17. Amend the introductory paragraphs to the Agriculture section of the Open Space and Conservation Element to read as follows:

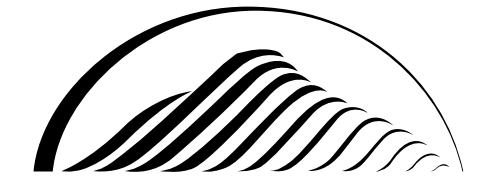
Agriculture has been important to the city as an industry and employment generator throughout its history, in addition to contributing to the city's rural character. Agricultural development policies intend to retain the historic agricultural character of lands surrounding Morgan Hill, and to minimize conflicts

between urban development and agricultural uses. *(This paragraph moved from the Urban Growth Boundary section of the Community Development Element)*

~~Agricultural operations are a key component of both the history and existing semi-rural character of Morgan Hill.~~ Supporting agriculture requires finding innovative ways to help farming and ranching operations become and remain competitive in an increasingly marginal economic environment.

18. Add Action 4.10 to the Open Space and Conservation Element to read as follows:

4.10 Encourage the Santa Clara County Open Space Authority to designate El Toro as a high priority area for preservation.



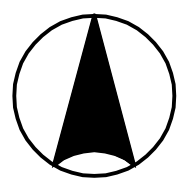
CITY OF MORGAN HILL
General Plan

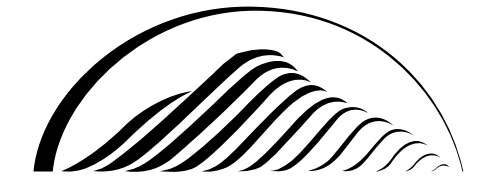
Map 6. Greenbelt Diagram



- City Limit
- - - Sphere of Influence
- Non-Urban Greenbelt Areas

April 2006



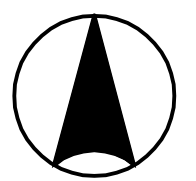


CITY OF MORGAN HILL
General Plan

Proposed Amendments to Land Use Diagram

- Urban Growth Boundary
- Urban Limit Line
(To be added to Land Use Diagram)
- Sphere of Influence
- Areas to be Removed from Urban Growth Boundary
- Areas to be Added to Urban Growth Boundary

April 2006





CITY COUNCIL STAFF REPORT

MEETING DATE: April 19, 2006

URBAN SERVICE AREA APPLICATION USA 05-02, ZONING AMENDMENT APPLICATION ZA 06-01 and ANNEXATION APPLICATION ANX-03-01: EDMUNDSON – OAK MEADOW PLAZA

RECOMMENDED ACTION:

1. Reconvene / Close Open Public Hearing
2. Adopt Resolution Approving Expansion of the Urban Service Area
3. Waive the First and Second Reading of Pre-zone Ordinance
4. Introduce Pre-zone Ordinance
5. Adopt Resolution Approving Annexation of the Property

EXECUTIVE SUMMARY: The applicant, Oak Meadow Plaza LLC, is requesting expansion of the Urban Service Area, Pre-Zoning and Annexation of all or parts of four parcels totaling 34 acres. Specifically, 34 acres are proposed to be annexed into the City, 20 acres of which are proposed to be pre-zoned R-1, 12,000 and 14 acres are proposed to be pre-zoned Open Space. The 20 acres proposed to be pre-zoned R-1 12,000 are also proposed to be included in the Urban Service Area. Approval of these actions would trigger the recordation of conservation easements over 84 acres of land and limitations on the number and location of additional houses to be built under County jurisdiction in the general vicinity. These actions are the subject of the non-binding Memorandum of Understanding signed by the City and Oak Meadow et. al. in February of this year. The proposed applications can only be approved if the subject property is included within the Urban Growth Boundary and assigned residential and open space land use designations, as proposed in the General Plan amendments for implementation of the Urban Limit Line / Greenbelt Study, also under consideration on this agenda.

The City Council opened the public hearing on these applications at its April 5 meeting. Considerable testimony was received at that time. The Council continued the hearings to this meeting to give staff time to respond to comments received at the meeting and with direction that staff evaluate the feasibility of a lower density zoning being applied to the portion of the property proposed for residential use. Responses to comments received regarding the Mitigated Negative Declaration proposed for the project can be found under the Environmental Documents section of the Urban Limit Line General Plan Amendment (GPA 05-05) on this agenda. Response to the question regarding density of project can be found in the Supplemental Memo for that same agenda item.

The Planning Commission reviewed these requests at its meetings of March 14 and 28. At its March 28 meeting, the Commission voted to approve the requests with two amendments. First, the number of acres to be included within the Urban Service Area and pre-zoned R-1 12,000 be reduced so as not to include any land with a slope greater than 10 percent (consistent with the Urban Limit Line Advisory Committee recommendation). Second, the area proposed to be pre-zoned Open Space and encumbered by an open space easement be deeded to the City. The Commission felt that the dedication of the property would be more closely follow the language of Measure C than recordation of an open space easement over it. Both amendments were approved on split votes. The attached staff reports to the Commission provided detailed information regarding the requests. The environmental evaluation for these applications is being considered as part of General Plan Amendment Application GPA 05-05, also on this agenda. A Mitigated Negative Declaration is proposed to be adopted. Attached are resolutions and an ordinance of approval for the applications. These documents incorporate the Commission's recommendations.

FISCAL IMPACT: No budget adjustment required.

Attachments:

1. Resolutions and Ordinances of Approval
2. Past Staff Reports

Agenda Item # 14

Prepared By:

Project Planner

Approved By:

**Community
Development Director**

Submitted By:

City Manager

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING URBAN SERVICE AREA APPLICATION USA 05-02 EDMUNDSON – OAK MEADOW PLAZA LLC

WHEREAS, such request was considered by the City Council at their regular meetings of April 5 and April 19, 2006, at which time the City Council approved Urban Service Area Application USA-02-01: Edmundson – Oak Meadow Plaza; and

WHEREAS, testimony received at a duly-noticed public hearing, along with exhibits and drawings and other materials have been considered in the review process.

NOW, THEREFORE, THE MORGAN HILL CITY COUNCIL DOES RESOLVE AS FOLLOWS:

SECTION 1. The proposed expansion of the Urban Service Area is consistent with the Zoning Ordinance and the General Plan. The proposed expansion is consistent with the City Council policy titled Criteria for Adjustment of the Urban Service Boundary (Desirable Infill Policy).

SECTION 2. The proposed expansion of the Urban Service Area would not unduly burden city services as it would qualify for a passing score of eight points under Part 1 of the RDCS. That section of the RDCS evaluates the impact that development of property would have upon local public facilities and services.

SECTION 3. The proposed expansion will beneficially affect the general welfare of the citizens of the City by preserving the scenic, open space value of approximately 84 acres of hillside and ridgelines. This will be accomplished by recordation of easements over the property that will prohibit their development and limit their use to agriculture and open space uses.

SECTION 4. An environmental initial study has been prepared for this application in conjunction with GPA 05-05. That study has been found complete, correct and in substantial compliance with the requirements of the California Environmental Quality Act. Mitigation measures have been developed for all potentially significant impacts that will reduce their effect to a less than significant level. A Mitigated Negative Declaration and a Mitigation Monitoring and Reporting Program were adopted for this application as part of GPA 05-05.

SECTION 5. The subject 19 acres shown on the attached Exhibit A is hereby included within the Urban Service Area subject to the following conditions:

1. Prior to LAFCO approval of expansion of the Urban Service Area, the applicant must enter and record against the property a legally binding agreement with the City committing to the recordation of open space easements over approximately 69 acres of land as described in the Memorandum of Understanding between the applicant and the City, approved by the City Council on February 1, 2006. The agreement must also provide for the dedication on an additional fifteen acres of land (located east of the City

- reservoir property) to the City.
2. The open space easements must be recorded and 15 acres deeded to the City within one year of the City Council's approval of inclusion of the subject 20 acres within the Urban Service Area or by the effective date upon which the property is formally included within the Urban Service Area, whichever occurs first.
 3. Should the legally binding agreement not be completed, the open space easements not be recorded, or the 15-acre area not deeded to the City within the time periods specified above, the City Council will schedule a hearing to consider removal of the subject 20 acres from the Urban Service Area.

PASSED AND ADOPTED by the City Council of Morgan Hill at a Regular Meeting held on the 19th Day of April, 2006 by the following vote.

AYES: **COUNCIL MEMBERS:**
NOES: **COUNCIL MEMBERS:**
ABSTAIN: **COUNCIL MEMBERS:**
ABSENT: **COUNCIL MEMBERS:**

☪ CERTIFICATION ☪

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Resolution No. , adopted by the City Council at a Regular Meeting held on April 19, 2006.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

IRMA TORREZ, City Clerk

☪ A F F I D A V I T ☪

I, _____, applicant, hereby agree to accept and abide by the terms and conditions specified in this resolution.

(Type Name) , Applicant

Date: _____

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING ANNEXATION APPLICATION ANX 06-01 EDMUNDSON – OAK MEADOW PLAZA LLC

WHEREAS, such request was considered by the City Council at their regular meetings of April 5 and April 19, 2006, at which time the City Council approved Annexation Application ANX 06-01: Edmundson – Oak Meadow Plaza LLC; and

WHEREAS, testimony received at a duly-noticed public hearing, along with exhibits and drawings and other materials have been considered in the review process.

NOW, THEREFORE, THE MORGAN HILL CITY COUNCIL DOES RESOLVE AS FOLLOWS:

SECTION 1. The approved annexation is consistent with the Zoning Ordinance and the General Plan.

SECTION 2. An environmental initial study has been prepared for this application in conjunction with GPA 05-05. That study has been found complete, correct and in substantial compliance with the requirements of the California Environmental Quality Act. Mitigation measures have been developed for all potentially significant impacts that will reduce their effect to a less than significant level. A Mitigated Negative Declaration and a Mitigation Monitoring and Reporting Program were adopted for this application as part of GPA 05-05.

SECTION 3. Annexation of the subject 34 acres as shown in attached Exhibit "A" is hereby approved, subject to the following conditions:

1. Fulfillment of City of Morgan Hill and Local Agency Formation Commission (LAFCO) requirements.
2. Payment of all appropriate state and local fees for processing of the subject annexation.
3. Prior to recordation of the annexation, copies of all county building permit records for the affected properties shall be provided to the City's Building Division.
4. Prior to recordation of annexation, the applicant shall provide to the City certification from Santa Clara County that no violations of the Uniform Housing Code exist on the property and that County Permits have been issued for all existing improvements on the property.

PASSED AND ADOPTED by the City Council of Morgan Hill at a Regular Meeting held on the 19th Day of April, 2006 by the following vote.

AYES: **COUNCIL MEMBERS:**
NOES: **COUNCIL MEMBERS:**
ABSTAIN: **COUNCIL MEMBERS:**
ABSENT: **COUNCIL MEMBERS:**

☞ CERTIFICATION ☞

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Resolution No. , adopted by the City Council at a Regular Meeting held on April 19, 2006.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

IRMA TORREZ, City Clerk

☞ A F F I D A V I T ☞

I, _____, applicant, hereby agree to accept and abide by the terms and conditions specified in this resolution.

(Type Name) , Applicant

Date: _____

ORDINANCE NO. , NEW SERIES

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
MORGAN HILL APPROVING ZONING AMENDMENT
APPLICATION ZA 06-01, EDMUNDSON – OAK MEADOW PLAZA
LLC**

**THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES HEREBY
ORDAIN AS FOLLOWS:**

- SECTION 1.** The proposed zoning amendment is consistent with the Zoning Ordinance and the General Plan.
- SECTION 2.** The zone change is required in order to serve the public convenience, necessity and general welfare as provided in Section 18.62.050 of the Municipal Code.
- SECTION 3.** An environmental initial study has been prepared for this application in conjunction with GPA 05-05. That study has been found complete, correct and in substantial compliance with the requirements of the California Environmental Quality Act. Mitigation measures have been developed for all potentially significant impacts that will reduce their effect to a less than significant level. A Mitigated Negative Declaration and a Mitigation Monitoring and Reporting Program were adopted for this application as part of GPA 05-05.
- SECTION 4.** Nineteen acres of the subject property is hereby pre-zoned R- 12,000 and 15 acres is pre-zoned Open Space, as shown on the attached Exhibit A.
- SECTION 5.** Effective Date Publication. This ordinance shall take effect thirty (30) days after the date of its adoption. The City Clerk is hereby directed to publish this ordinance pursuant to §36933 of the Government Code.

The foregoing ordinance was introduced at the regular meeting of the City Council of the City of Morgan Hill held on the 19th Day of April 2006, and was finally adopted at a regular meeting of said Council on the Day of April 2006, and said ordinance was duly passed and adopted in accordance with law by the following vote:

AYES:	COUNCIL MEMBERS:
NOES:	COUNCIL MEMBERS:
ABSTAIN:	COUNCIL MEMBERS:
ABSENT:	COUNCIL MEMBERS:

ATTEST:

APPROVED:

Irma Torrez, City Clerk

Dennis Kennedy, Mayor

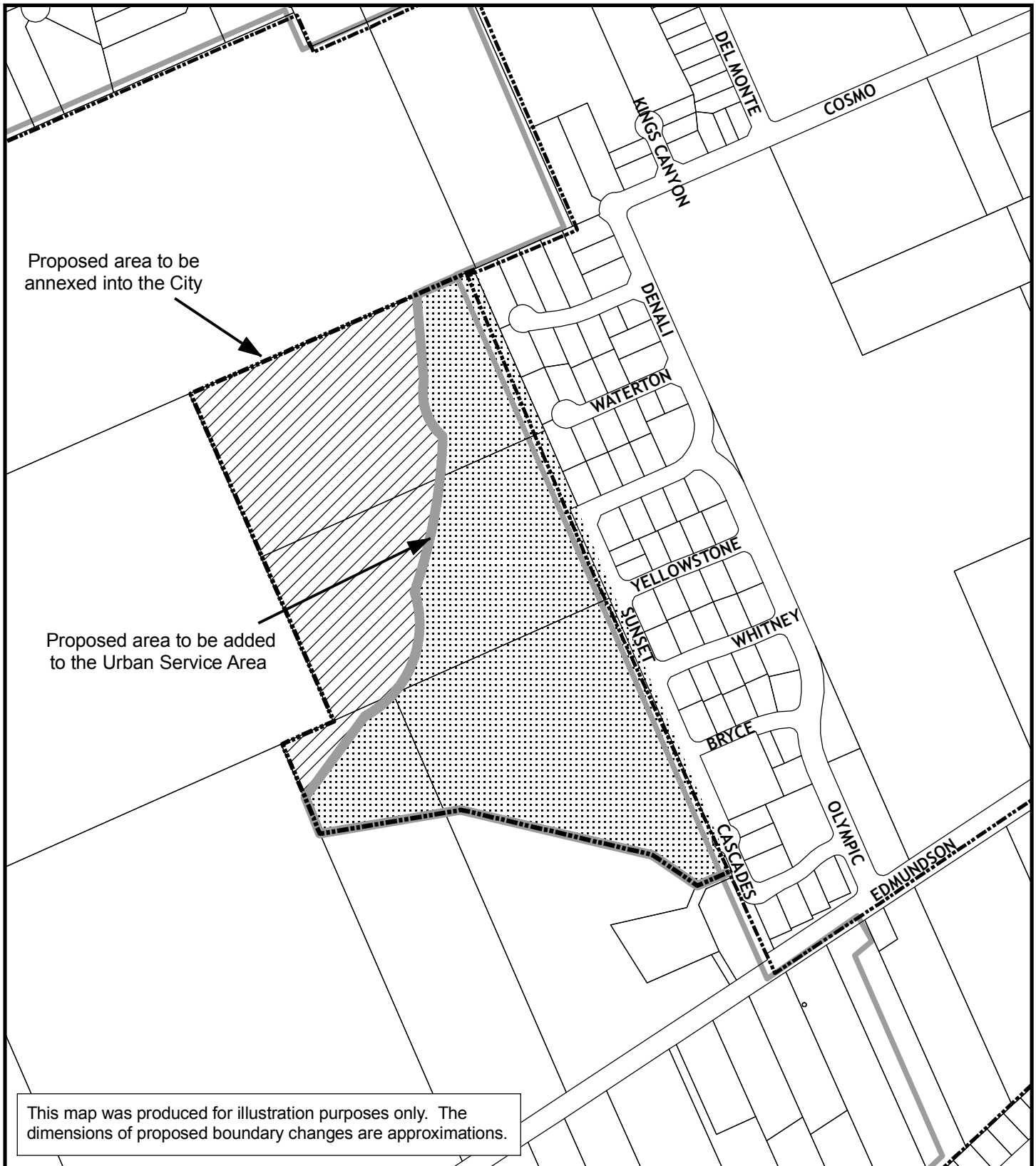
⌘ CERTIFICATE OF THE CITY CLERK ⌘

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Ordinance No. , New Series, adopted by the City Council of the City of Morgan Hill, California at their regular meeting held on the Day of April 2006.

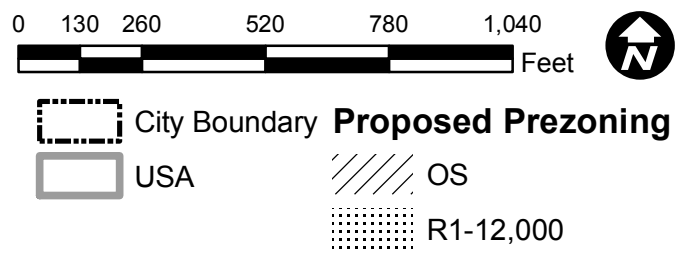
WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

IRMA TORREZ, City Clerk



This map was produced for illustration purposes only. The dimensions of proposed boundary changes are approximations.



ZA-06-01, USA-05-02, ANX-06-01
Sunset - Oak Meadow Plaza





CITY COUNCIL STAFF REPORT

MEETING DATE: April 19, 2006

GENERAL PLAN AMENDMENT APPLICATION GPA 05-06, URBAN SERVICE AREA APPLICATION USA 05-01, ZONING AMENDMENT APPLICATION ZA 05-27 and ANNEXATION APPLICATION ANX-05-18: SANTA TERESA BLVD. – BLACK ROCK

RECOMMENDED ACTION:

1. Reconvene / Close Open Public Hearing
2. Adopt Resolution Approving General Plan Amendment
3. Adopt Resolution Approving Expansion of the Urban Service Area
4. Waive the First and Second Reading of Pre-zone Ordinance
5. Introduce Pre-zone Ordinance
6. Adopt Resolution Approving Annexation of the Property

Agenda Item # 15

Prepared By:

Project Planner

Approved By:

**Community
Development Director**

Submitted By:

City Manager

EXECUTIVE SUMMARY: The subject 18-acre parcel is located at the southwest corner of Santa Teresa and Watsonville Road. The applicant, Black Rock, LLC, has requested the City take the four following actions regarding the subject property: 1. Include the parcel within the Urban Growth Boundary and designate it Residential Estate on the General Plan Land Use Diagram, 2. Include the parcel within the Urban Service Area, 3. Pre-zone the parcel RE 40,000 RPD, and 4. Annex the parcel into the city limits.

The City Council opened the public hearing on these applications at its April 5 meeting and continued them to this date to allow the Planning Commission to complete its recommendation to the Council regarding the beneficial effects that addition of the property to the Urban Service Area would have on the general welfare of the community. The Commission's findings, which have been incorporated into the Council resolution, are that dedication of a new well site and installation of an asphalt overlay on Watsonville Rd. will provide the necessary benefit to warrant approval of the application. The environmental evaluation for these applications is being considered as part of General Plan Amendment Application GPA 05-05, also on this agenda. A Mitigated Negative Declaration is proposed to be adopted. Attached are copies of the March 14 and 28 Planning Commission reports and the April 5 Council report for reference purposes.

At the April 5 City Council meeting, staff represented the Urban Limit Line Advisory Committee's inclusion of the Black Rock property within the Urban Limit Line as being contentious. Subsequent to that meeting, one of the owners of the property questioned that representation. Staff reviewed the minutes of the ULL / Greenbelt Study Advisory Committee meeting at which the Black Rock property was added to the ULL and found that the vote was 15 in favor and 1 abstention. Although there was consensus to include the property in the ULL, there was considerable discussion regarding the terms under which it should be included. Staff did not support including the property within the ULL.

The Planning Commission recommends approval of all the applications under consideration. Attached to this Staff Report is a memo outlining other options available to the Council.

FISCAL IMPACT: No budget adjustment required.

Attachments:

1. Supplemental Staff Memo
2. Resolutions and Ordinances of Approval
3. Past Staff Reports



Memorandum

Date: APRIL 19, 2006

To: CITY MANAGER

From: COMMUNITY DEVELOPMENT DEPARTMENT

Subject: GENERAL PLAN AMENDMENT APPLICATION GPA 05-06, URBAN SERVICE AREA APPLICATION USA 05-01, ZONING AMENDMENT APPLICATION ZA 05-27 and ANNEXATION APPLICATION ANX-05-18: SANTA TERESA BLVD. – BLACK ROCK

Options Available To Council

The Planning Commission recommends the Council approve all of the requests before it regarding the subject property. These actions would effectively plan the property for urban use and include it with in the city limits. Other options available to the Council include the following:

1. Do not include property within Urban Limit Line (modifying the proposed ULL General Plan Amendment) and deny all requests: This option would leave the property under County jurisdiction for the foreseeable future. It would also establish a policy that the City does not intend to expand further to the west of Sunnyside in this area.
2. Include the property within the Urban Growth Boundary and designate it for Residential Estate use. Deny the Urban Service Area, Pre-zone and Annexation requests: This option would recognize that annexation and development of the property may be appropriate within the next 20 years, but that annexation and development at this time are premature.
3. Include the property within the Urban Growth Boundary, designate it for Residential Estate use, and add the property to the Urban Service Area. Deny the Pre-zone and Annexation requests: This option would recognize that annexation and development of the property may be appropriate within the next 5 years, but is premature at this time.
4. Include the property within the Urban Growth Boundary, designate it for Residential Estate use, add the property to the Urban Service Area, Pre-zone it RE 40,000 (RPD) and annex it into the city limits (the applicants' request and Planning Commission's recommendation): This option would recognize that annexation and development of the property in the near future is appropriate.

RESOLUTION NO.

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
MORGAN HILL APPROVING APPROVAL OF GENERAL PLAN
AMENDMENT APPLICATION GPA-05-06: SANTA TERESA –
BLACK ROCK LLC (APN 779-02-002)**

WHEREAS, such request was considered by the City Council at their regular meetings of April 5 and April 19, 2006, at which time the City Council approved General Plan Amendment Application GPA-05-06: Santa Teresa – Black Rock; and

WHEREAS, testimony received at a duly-noticed public hearing, along with exhibits and drawings and other materials have been considered in the review process.

**NOW, THEREFORE, THE MORGAN HILL CITY COUNCIL DOES RESOLVE
AS FOLLOWS:**

SECTION 1. The approved project is consistent with the Zoning Ordinance and the General Plan.

SECTION 2. An environmental initial study has been prepared for this application in conjunction with GPA 05-05. That study has been found complete, correct and in substantial compliance with the requirements of the California Environmental Quality Act. Mitigation measures have been developed for all potentially significant impacts that will reduce their effect to a less than significant level. A Mitigated Negative Declaration and a Mitigation Monitoring and Reporting Program were adopted for this application as part of GPA 05-05.

SECTION 3. The subject property is hereby added to the Urban Growth Boundary and assigned the Residential Estate General Plan Land Use designation. The subject property is shown on the attached Exhibit A.

PASSED AND ADOPTED by the City Council of Morgan Hill at a Regular Meeting held on the 19th Day of April, 2006 by the following vote.

AYES:	COUNCIL MEMBERS:
NOES:	COUNCIL MEMBERS:
ABSTAIN:	COUNCIL MEMBERS:
ABSENT:	COUNCIL MEMBERS:

🏛️ CERTIFICATION 🏛️

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Resolution No. _____, adopted by the City Council at a Regular Meeting held on April 19, 2006.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

IRMA TORREZ, City Clerk

🏛️ AFFIDAVIT 🏛️

I, _____, applicant, hereby agree to accept and abide by the terms and conditions specified in this resolution.

(Type Name) _____, Applicant

Date: _____

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING URBAN SERVICE AREA APPLICATION USA-05-01: SANTA TERESA – BLACK ROCK LLC

WHEREAS, such request was considered by the City Council at their regular meetings of April 5 and April 19, 2006, at which time the City Council approved Urban Service Area Application USA-05-01: Santa Teresa – Black Rock; and

WHEREAS, testimony received at a duly-noticed public hearing, along with exhibits and drawings and other materials have been considered in the review process.

NOW, THEREFORE, THE MORGAN HILL CITY COUNCIL DOES RESOLVE AS FOLLOWS:

SECTION 1. The proposed expansion of the Urban Service Area is consistent with the Zoning Ordinance and the General Plan. The proposed expansion is consistent with the City Council policy titled Criteria for Adjustment of the Urban Service Boundary (Desirable Infill Policy).

SECTION 2. The proposed expansion of the Urban Service Area would not unduly burden city services as it would qualify for a passing score of eight points under Part 1 of the RDCS. That section of the RDCS evaluates the impact that development of property would have upon local public facilities and services.

SECTION 3. Obtaining dedication of a well site in a location approved by the Public Works Director, and installation of an asphalt overlay on Watsonville Rd. along the property frontage would help to improve water service within the City and improve traffic safety in the area and thereby beneficially affect the general welfare of the citizens of the City.

SECTION 4. An environmental initial study has been prepared for this application in conjunction with GPA 05-05. That study has been found complete, correct and in substantial compliance with the requirements of the California Environmental Quality Act. Mitigation measures have been developed for all potentially significant impacts that will reduce their effect to a less than significant level. A Mitigated Negative Declaration and a Mitigation Monitoring and Reporting Program were adopted for this application as part of GPA 05-05.

SECTION 5. The subject 18 acres shown in attached Exhibit "A" is hereby included within the Urban Service Area, subject to the following conditions:

1. Prior to LAFCO approval of expansion of the Urban Service Area, the applicant must enter and record against the property a legally binding agreement with the City committing the applicant to the provision of a well site and asphalt overlay on Watsonville Rd. along the property frontage.
2. The well site must be dedicated to the City and asphalt overlay of Watsonville Rd. along the property frontage must be installed within five years of LAFCO's action including the subject property within the Urban Service Area or upon the property's award of allocation, whichever occurs

- first.
3. Should the legally binding agreement not be completed or the well site not be dedicated to the City or asphalt overlay of Watsonville Rd. along the property frontage not be installed within the time periods specified above, the City Council will schedule a hearing to consider removal of the subject 20 acres from the Urban Service Area and city limits.

PASSED AND ADOPTED by the City Council of Morgan Hill at a Regular Meeting held on the 19th Day of April, 2006 by the following vote.

AYES: **COUNCIL MEMBERS:**
NOES: **COUNCIL MEMBERS:**
ABSTAIN: **COUNCIL MEMBERS:**
ABSENT: **COUNCIL MEMBERS:**

☞ CERTIFICATION ☞

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Resolution No. , adopted by the City Council at a Regular Meeting held on April 19, 2006.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

IRMA TORREZ, City Clerk

☞ A F F I D A V I T ☞

I, _____, applicant, hereby agree to accept and abide by the terms and conditions specified in this resolution.

(Type Name) , Applicant

Date: _____

ORDINANCE NO. , NEW SERIES

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
MORGAN HILL APPROVING ZONING AMENDMENT
APPLICATION ZA-05-27: SANTA TERESA – BLACK ROCK LLC
(APN 779-02-002)**

**THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES HEREBY
ORDAIN AS FOLLOWS:**

SECTION 1. The proposed zoning amendment is consistent with the Zoning Ordinance and the General Plan.

SECTION 2. The zone change is required in order to serve the public convenience, necessity and general welfare as provided in Section 18.62.050 of the Municipal Code.

SECTION 3. An environmental initial study has been prepared for this application in conjunction with GPA 05-05. That study has been found complete, correct and in substantial compliance with the requirements of the California Environmental Quality Act. Mitigation measures have been developed for all potentially significant impacts that will reduce their effect to a less than significant level. A Mitigated Negative Declaration and a Mitigation Monitoring and Reporting Program were adopted for this application as part of GPA 05-05.

SECTION 4. The subject property is pre-zoned RE 40,000 (RPD) subject to the following condition:

1. Development of the parcel shall occur at a density which transitions from minimum parcel sizes of one acre on the southeastern side of the site to minimum parcel sizes of approximately two and one half acres on the southwestern side of the site.

SECTION 5. Effective Date Publication. This ordinance shall take effect thirty (30) days after the date of its adoption. The City Clerk is hereby directed to publish this ordinance pursuant to §36933 of the Government Code.

The foregoing ordinance was introduced at the regular meeting of the City Council of the City of Morgan Hill held on the 19th Day of April 2006, and was finally adopted at a regular meeting of said Council on the Day of April 2006, and said ordinance was duly passed and adopted in accordance with law by the following vote:

AYES:	COUNCIL MEMBERS:
NOES:	COUNCIL MEMBERS:
ABSTAIN:	COUNCIL MEMBERS:
ABSENT:	COUNCIL MEMBERS:

ATTEST:

APPROVED:

Irma Torrez, City Clerk

Dennis Kennedy, Mayor

⌘ CERTIFICATE OF THE CITY CLERK ⌘

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Ordinance No. , New Series, adopted by the City Council of the City of Morgan Hill, California at their regular meeting held on the Day of April 2006.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

IRMA TORREZ, City Clerk

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING ANNEXATION APPLICATION ANX-05-18: SANTA TERESA – BLACK ROCK LLC

WHEREAS, such request was considered by the City Council at their regular meetings of April 5 and April 19, 2006, at which time the City Council approved Annexation Application ANX-05-18: Santa Teresa – Black Rock LLC; and

WHEREAS, testimony received at a duly-noticed public hearing, along with exhibits and drawings and other materials have been considered in the review process.

**NOW, THEREFORE, THE MORGAN HILL CITY COUNCIL DOES RESOLVE
AS FOLLOWS:**

SECTION 1. The approved annexation is consistent with the Zoning Ordinance and the General Plan.

SECTION 2. An environmental initial study has been prepared for this application in conjunction with GPA 05-05. That study has been found complete, correct and in substantial compliance with the requirements of the California Environmental Quality Act. Mitigation measures have been developed for all potentially significant impacts that will reduce their effect to a less than significant level. A Mitigated Negative Declaration and a Mitigation Monitoring and Reporting Program were adopted for this application as part of GPA 05-05.

SECTION 3. Annexation of the subject 18 acres as shown in attached Exhibit "A" is hereby approved, subject to the following conditions:

1. Fulfillment of City of Morgan Hill and Local Agency Formation Commission (LAFCO) requirements.
2. Payment of all appropriate state and local fees for processing of the subject annexation.
3. Prior to recordation of the annexation, copies of all county building permit records for the affected properties shall be provided to the City's Building Division.
4. Prior to recordation of annexation, the applicant shall provide to the City certification from Santa Clara County that no violations of the Uniform Housing Code exist on the property and that County Permits have been issued for all existing improvements on the property.

PASSED AND ADOPTED by the City Council of Morgan Hill at a Regular Meeting held on the 19th Day of April, 2006 by the following vote.

AYES: **COUNCIL MEMBERS:**
NOES: **COUNCIL MEMBERS:**
ABSTAIN: **COUNCIL MEMBERS:**
ABSENT: **COUNCIL MEMBERS:**

☞ CERTIFICATION ☞

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Resolution No. , adopted by the City Council at a Regular Meeting held on April 19, 2006.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

IRMA TORREZ, City Clerk

☞ A F F I D A V I T ☞

I, _____, applicant, hereby agree to accept and abide by the terms and conditions specified in this resolution.

(Type Name) , Applicant

Date: _____



CITY COUNCIL STAFF REPORT

MEETING DATE: April 19, 2006

DEVELOPMENT AGREEMENT AMENDMENT DAA: 04-06: COCHRANE-BORELLO

RECOMMENDED ACTION(S):

1. Open/close Public Hearing
2. Waive the First and Second Reading of Ordinance
3. Introduce Ordinance

EXECUTIVE SUMMARY: The applicant is requesting an amendment to an approved development agreement for a fifteen lot single family residential subdivision located near the intersection of Cochrane Road and St. Mark's Road. The specific amendment request is to allow for a six month extension of time for obtaining building permits and commencing construction on eight (Phase 1) of the fifteen units.

Exhibit B of the approved development agreement requires Phase 1 (FY05-06) eight building permits be obtained and commence construction by March 1, 2006 and June 30, 2006 respectively.

The proposed extension of time is being requested due to delays not the result of developer inaction. The project has been delayed due to a variety of challenging constraints which has stalled the recording of the Final Map. As part of circulation improvements the applicant was required to install full street improvements along Santa Clara Valley Water District (SCVWD) property. The applicant has yet to receive approval from SCVWD for these plans. The applicant was required to install storm drain improvements from the end of St. Marks drive to Cochrane road. The applicant must obtain approval from Santa Clara County Parks Department (SCC Parks) for the expansion of an existing storm drain easement. SCC Parks has yet to grant this approval. The applicant is also seeking approval from PG&E to cross over an existing 50-foot gas line easement to install public streets, but has not yet received approval. Consequently, all of these delays have prevented the applicant from recording the final map.

On March 28, the Planning Commission considered the request and voted 6-0 to approve the development agreement amendment request as recommended by staff. A copy of the Commission's March 28th minutes and staff report are attached for the Council's reference.

FISCAL IMPACT:

No budget adjustment required.

Agenda Item # 16

Prepared By:

Associate Planner

Approved By:

**Community
Development Director**

Submitted By:

City Manager

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING AN AMENDMENT TO ORDINANCE NO. 1708 NEW SERIES, AMENDING THE DEVELOPMENT AGREEMENT FOR APPLICATION DA-04-06: COCHRANE-BORELLO. (APN 728-34-007)

THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. The City Council has adopted Resolution No. 4028 establishing a procedure for processing Development Agreements for projects receiving allotments through the Residential Development Control System, Title 18, Chapter 18.78 of the Municipal Code.

SECTION 2. The California Government Code Sections 65864 thru 65869.5 authorizes the City of Morgan Hill to enter into binding Development Agreements with persons having legal or equitable interests in real property for the development of such property.

SECTION 3. The Planning Commission, pursuant to Title 18, Chapter 18.78.125 of the Municipal Code and Resolution No. 04-037, adopted April 13, 2004, has awarded allotments to a certain project herein after described as follows:

<u>Project</u>	<u>Total Dwelling Units</u>
MP-03-04: Cochrane-Borello	8 units (FY05-06) 7 units (FY06-07)

SECTION 4. References are hereby made to certain Agreements on file in the office of the City Clerk of the City of Morgan Hill. These documents to be signed by the City of Morgan Hill and the property owner set forth in detail and development schedule, the types of homes, and the specific restrictions on the development of the subject property. Said Agreement herein above referred to is amended by this ordinance and shall be binding on all future owners and developers as well as the present owners of the lands, and any substantial change can be made only after further public hearings before the Planning Commission and the City Council of this City.

SECTION 5. The City Council hereby finds that the development agreement amendment approved by this ordinance is compatible with the goals, objectives, policies, and land uses designated by the General Plan of the City of Morgan Hill.

SECTION 6. Authority is hereby granted for the City Manager to execute all development agreements approved by the City Council during the Public Hearing Process.

SECTION 7. Severability. If any part of this Ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or the applicability of this Ordinance to other situations.

SECTION 8. Effective Date Publication. This ordinance shall take effect thirty (30) days after the date of its adoption. The City Clerk is hereby directed to publish this ordinance pursuant to §36933 of the Government Code.

SECTION 9. MODIFICATION TO DEVELOPMENT SCHEDULE. The Council hereby approves an amendment to the development schedule as attached in Exhibit B, and by this reference incorporated herein.

The foregoing ordinance was introduced at the regular meeting of the City Council of the City of Morgan Hill held on the 19th Day of April 2006, and was finally adopted at a regular meeting of said Council on the Day of April 2006, and said ordinance was duly passed and adopted in accordance with law by the following vote:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:

ATTEST:

APPROVED:

Irma Torrez, City Clerk

Dennis Kennedy, Mayor

∞ CERTIFICATE OF THE CITY CLERK ∞

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Ordinance No. , New Series, adopted by the City Council of the City of Morgan Hill, California at their regular meeting held on the Day of April 2006.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

IRMA TORREZ, City Clerk

EXHIBIT "B"

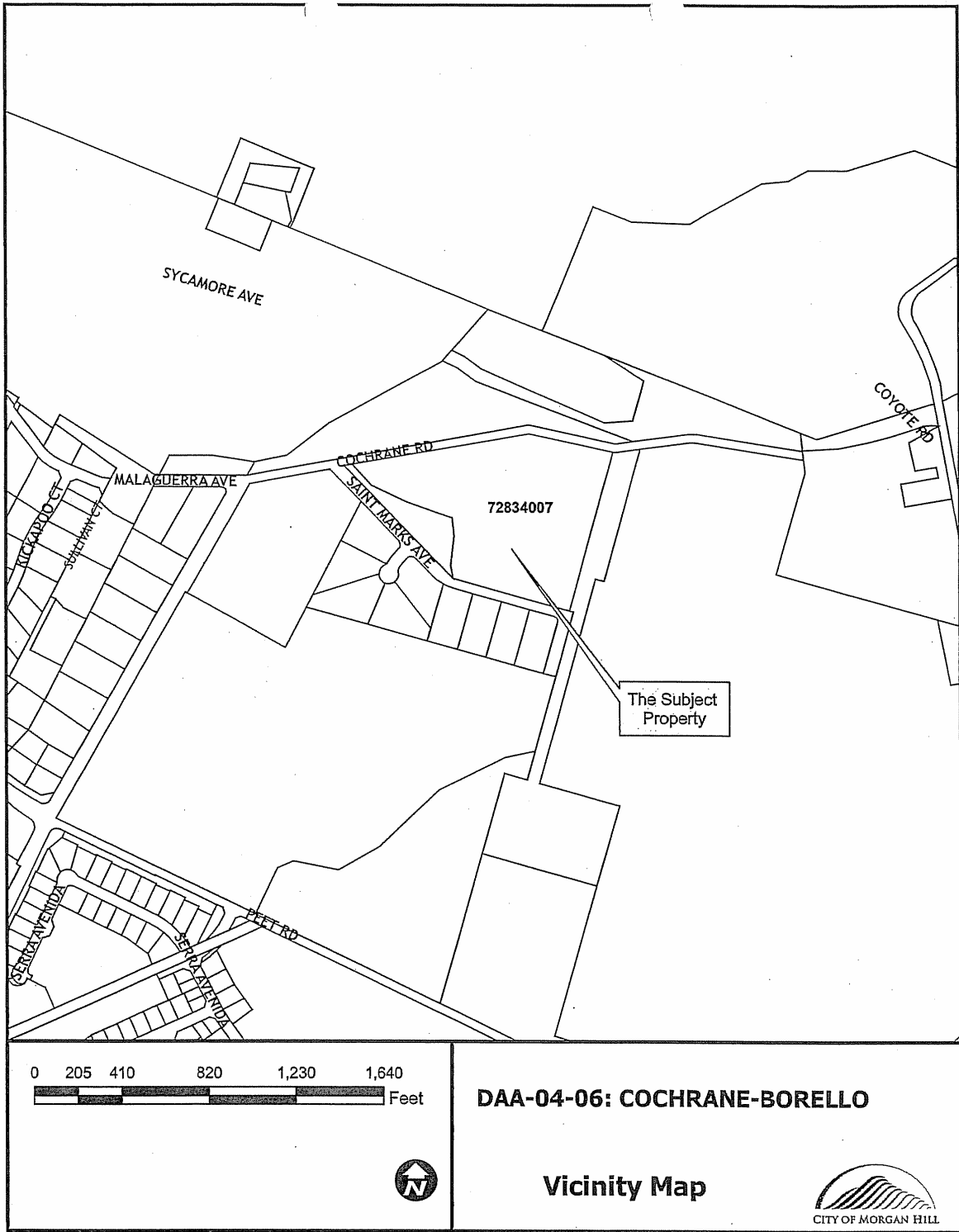
**DEVELOPMENT SCHEDULE MP 03-04: Cochrane-Borello
FY 2005-2006 (8 units), FY 2006-2007 (7 units)**

I. SUBDIVISION APPLICATIONS	
Applications Filed:	September 13, 2004
II. SITE REVIEW APPLICATION	
Application Filed:	October 14, 2004
III. FINAL MAP SUBMITTAL	
Map, Improvements Agreement and Bonds:	June 30, 2004
IV. BUILDING PERMIT SUBMITTAL	
Submit plans to Building Division for plan check: FY 2005-2006 (8 units)	September 30, 2005
FY 2006-2007 (7 units)	June 30, 2006
V. BUILDING PERMITS	
Obtain Building Permits: FY 2005-2006 (8 units)	September 1, 2006 March 1, 2006
FY 2006-2007 (7 units)	September 30, 2006
Commence Construction: FY 2005-2006 (8 units)	December 30, 2006 June 30, 2006
FY 2006-2007 (7 units)	June 30, 2007

Failure to obtain building permits and commence construction by the dates listed above, shall result in the loss of building allocations. Submitting a Final Map Application or a Building Permit six (6) or more months beyond the filing dates listed above shall result in the applicant being charged a processing fee equal to double the building permit plan check fee and/or double the map checking fee to recoup the additional costs incurred in processing the applications within the required time limits. Additionally, failure to meet the Final Map Submittal and Building Permit Submittal deadlines listed above may result in loss of building allocations. In such event, the property owner must re-apply under the development allotment process outlined in Section 18.78.090 of the Municipal Code if development is still desired.

An exception to the loss of allocation may be granted by the City Council if the cause for the lack of commencement was the City's failure to grant a building permit for the project due to an emergency situation as defined in Section 18.78.140 or extended delays in environmental reviews, permit delays not the result of developer inactions, or allocation appeals processing.

If a portion of the project has been completed (physical commencement on at least 7 dwelling units and lot improvements have been installed according to the plans and specifications), the property owner may submit an application for reallocation of allotments. Distribution of new building allocations for partially completed project shall be subject to the policies and procedures in place at the time the reallocation is requested.





CITY COUNCIL STAFF REPORT

MEETING DATE: April 19, 2006

APPLICATION GPA-05-01: AMENDMENT TO THE CIRCULATION ELEMENT FOR THE MADRONE PARKWAY EXTENSION

RECOMMENDED ACTION(S):

1. Open/Close the Public Hearing
2. Approve Negative Declaration
3. Adopt Resolution adding the Tilton Ave. railroad crossing as a 2-lane collector street from Monterey Road to Hale Avenue/future Santa Teresa Boulevard.

EXECUTIVE SUMMARY: The adoption of the updated Circulation Element to the General Plan in 2001 included a proposed extension of Madrone Parkway across the Union Pacific Railroad (UPRR) track west to Hale Avenue/future Santa Teresa Blvd. Madrone Parkway is the northerly terminus to Butterfield Boulevard. The circulation plan would create a new at grade railroad crossing at Madrone Parkway in trade for the closure of Tilton Avenue. In 2002, the City made application to the California Public Utilities Commission (PUC) to construct the at-grade crossing and completing the connection to Monterey Road. The application was rejected by the PUC and was opposed by UPRR for safety reasons.

In 2004, the City commissioned a study to provide the City Council with alternatives for establishing a major east-west thoroughfare across the UPRR tracks at the north end of the City. Three alternate locations were studied. All three alternatives met the General Plan build-out conditions and maintain signalized intersections at the acceptable level of D+ or better. However, each of the alternatives required a General Plan amendment. The City Council directed staff to eliminate the Madrone Parkway extension from the General Plan in exchange for one of the alternatives.

Following the City Council decision to amend the Circulation Element, staff was advised that the PUC and UPRR have reconsidered their position with respect to the Madrone Parkway crossing. Both are now willing to consider a new at grade crossing at Madrone. The matter came up for reconsideration in conjunction with a project being undertaken by the VTA to install double tracks across Tilton Avenue. The Council's Regional Planning and Transportation Subcommittee were advised of this change in position at their September 9, 2005 meeting. The Subcommittee noted that while alternatives exist to the Madrone Parkway extension that will meet the General Plan build-out conditions; Madrone Parkway is the preferred alignment to meet the City's transportation needs. The Subcommittee voted to recommend the City keep the Madrone Parkway extension in the General Plan.

While UPRR has not stated their formal position on the Madrone Parkway crossing, UPRR staff has indicated that the City would need to close other existing grade crossings and make other improvements for the Madrone crossing to proceed. Under these terms, it is not likely that the Madrone crossing will occur in the near term. Staff believes it is still preferable to keep the Madrone crossing as a future option in the Circulation Plan.

Should circumstances change with respect to Union Pacific's allowance for the new at-grade crossing, the City Council can return to one of the three alternatives and keep Tilton Avenue open with planned safety improvements, or if the Madrone Parkway crossing is possible, consider closing the Tilton Avenue crossing. To be consistent with maintaining the Tilton Avenue crossing at the present time, the Planning Commission recommends the Circulation Plan be amended to establish a collector street designation and Tilton Avenue connection between Monterey Road and Hale Avenue. Map 4 of the Circulation Plan currently shows Tilton Avenue ending on the west side of the railroad tracks. Attached is a copy of Map 4 with the recommended amendment. The Commission voted 6-0 to recommend the amendment. See attached report and minutes.

FISCAL IMPACT: No budget adjustment required.

Agenda Item # 17

Prepared By:

Planning Manager

Approved By:

Submitted By:

City Manager

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING RETENTION OF THE MADRONE PARKWAY EXTENSION BETWEEN MONTEREY ROAD AND THE SANTA TERESA CORRIDOR AND AMENDING THE CIRCULATION ELEMENT OF THE GENERAL PLAN AND MAP 4, THE CIRCULATION PLAN, TO RE-ESTABLISH TILTON AVENUE BETWEEN HALE AVENUE AND MONTEREY ROAD AS A DESIGNATED 2-LANE COLLECTOR STREET.

WHEREAS, such request was considered by the City Council at their regular meeting of April 19, 2006 to retain the Madrone Parkway extension in the General Plan Circulation Plan and to re-establish Tilton Avenue on the General Plan Circulation Plan as a two lane collector street between Hale Avenue/future Santa Teresa Boulevard and Monterey Road; and

WHEREAS, testimony received at a duly-noticed public hearing, along with exhibits and drawings and other materials have been considered in the review process.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES RESOLVE AS FOLLOWS:

SECTION 1. The General Plan Amendment is consistent with the provisions of the General Plan.

SECTION 2. An environmental assessment has been prepared for this project and is deemed complete, correct and adequate in accordance with state and local environmental guidelines. Based upon said study, a Negative Declaration will be filed.

SECTION 3. The City Council finds that while alternatives exist to the Madrone Parkway extension that will meet the General Plan build-out conditions; Madrone Parkway is still the preferred alignment to meet the City's long-term transportation needs. Given that the State Public Utilities Commission and the Union Pacific Railroad have reconsidered their positions and are willing to allow a future at-grade railroad crossing at the Madrone Parkway extension, the City Council hereby preserves this option in the General Plan. The City Council's Regional Planning and Transportation Subcommittee also voted 2-0 to recommend keeping the Madrone Parkway extension in the General Plan.

SECTION 4. The City Council hereby amends Map 4, the General Plan Circulation Plan and Policy 3r of the Circulation Element to the General Plan to include Tilton Avenue among the East/West Roadways as a designated two lane collector street between Monterey Road and Hale Avenue/ future Santa Teresa Boulevard.

PASSED AND ADOPTED by the City Council of Morgan Hill at a Regular Meeting held on the 19th Day of April, 2006 by the following vote.

AYES: **COUNCIL MEMBERS:**
NOES: **COUNCIL MEMBERS:**
ABSTAIN: **COUNCIL MEMBERS:**
ABSENT: **COUNCIL MEMBERS:**

🍷 CERTIFICATION 🍷

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Resolution No. , adopted by the City Council at a Regular Meeting held on April 19, 2006.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

IRMA TORREZ, City Clerk



CITY COUNCIL STAFF REPORT
MEETING DATE: April 19, 2006

**PROPOSED TEXT AMENDMENTS TO TITLE 2,
ADMINISTRATION AND PERSONNEL, OF THE MORGAN
HILL MUNICIPAL CODE**

RECOMMENDED ACTION(S):

- 1) Waive the First and Second Reading of Ordinance
- 2) Introduce Ordinance

EXECUTIVE SUMMARY:

The City Council initially considered proposed draft amendments to Title 2, Administration and Personnel, of the Morgan Hill Municipal Code on October 19 with a follow up discussion on December 14, 2005. The City Council was in general support of the draft text amendments, as presented on December 14, 2005. However, there were some remaining questions/issues that staff needed to report back to the Council. On January 11, 2006, the City Council concluded its review of unresolved questions/issues. The following items highlight direction given by the Council at the January 11, 2006 meeting:

- Agreed to allow individuals who reside within the Morgan Hill Unified School District boundary, and who do not otherwise reside in any other city limits except the Morgan Hill city limits, to be considered for appointment to boards, commission and committees. Further, no more than 30% of non Morgan Hill residents shall be appointed to boards, commissions or committees.
- Agreed to eliminate the requirement that an applicant be a registered voter in order to be considered for a board or commission - to be applied across all boards and commissions; however, continue to ask the question on the application form.
- Increased the terms from two to four-year appointments for the Parks & Recreation Commission (similar to Planning Commission); leaving all other boards and commissions at two-year terms.
- Moved Senior Advisory Commission appointment terms to June 2006.

Interim City Attorney Siegel informed the Council that he would review the Government Code to determine requirements specific to Planning Commission appointments to ensure that proposed amendments would not conflict as they relate to this Commission.

At the January 11, 2006 meeting, the Council directed staff to incorporate the identified modifications in an ordinance for Council consideration. The staff reports for the December 14, 2005 and January 11, 2006 Council meetings, along with the related minutes, are attached as background information.

FISCAL IMPACT: No fiscal impact.

Agenda Item # 18

Prepared By:

**Council Services &
Records Manager**

Approved By:

City Attorney

Submitted By:

City Manager

ORDINANCE NO. [], NEW SERIES

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL AMENDING TITLE 2, CHAPTERS 2.22 (MASTER PROVISIONS FOR BOARDS & COMMISSIONS), 2.28 (HEALTH COMMISSION), 2.32 (PARKS & RECREATION COMMISSION), 2.56 (ARCHITECTURAL & SITE REVIEW BOARD), 2.64 (MOBILE HOME RENT COMMISSION), AND 2.68 (LIBRARY, CULTURE & ARTS COMMISSION); AND ADDING SECTION 2.70, SENIOR ADVISORY COMMISSION OF THE MORGAN HILL MUNICIPAL CODE.

WHEREAS, pursuant to its appointment powers under Government Code section 36505, the City Council of the City of Morgan Hill has established a Health Commission; Parks & Recreation Commission; an Architectural and Site Review Board; a Library, Culture & Arts Commission, and a Senior Advisory Commission; and

WHEREAS, all the aforementioned Board Members and Commissioners are appointed by the City Council for specified terms; and

WHEREAS, the City Council finds that additional flexibility regarding appointments is necessary to increase responsiveness to community needs regarding the various issues addressed by the board and commissions; and

WHEREAS, the City Council finds that Board and Commission appointments should be scheduled to account for the desires of the community as expressed in the municipal elections held periodically.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. Title 2 [Administration and Personnel] of the City of Morgan Hill Municipal Code is hereby amended to read as follows:

 Chapters:

 2.68 Library, **Culture and Arts Commission**
 2.70 Senior Advisory Commission

Section 2. Chapter 2.22 [Master Provisions for Boards and Commissions] of Title 2 [Administration and Personnel] of the City of Morgan Hill Municipal Code is hereby amended in its entirety to read as follows:

Chapter 2.22

MASTER PROVISIONS FOR BOARDS AND COMMISSIONS

Sections:

- 2.22.010 Establishment of boards and commissions.
- 2.22.030 Clerk and secretary.
- 2.22.040 Rules of procedure.
- 2.22.050 Rules of attendance.
- 2.22.060 Meetings.
- 2.22.070 Compensation.
- 2.22.080 Effect.

2.22.010 Establishment of boards and commissions.

A. There are established within the city the following boards and commissions:

1. Planning commission;
2. Mobile home rent advisory commission;
3. Parks and recreation commission;
4. Architectural and site review board; and
5. Library, culture and arts commission;
6. Senior advisory commission; and
7. Civil disaster and emergency organization

B. Unless otherwise set forth, all members of boards, ~~and commissions~~ and committees shall be residents of ~~and registered voters in~~ the city and shall continue to be ~~qualified electors in and~~ residents of the city during their terms of office. Notwithstanding the foregoing, individuals who reside within the Morgan Hill Unified School District boundary and who do not otherwise reside in any city other than Morgan Hill may be appointed to boards, commissions and committees provided that no more than thirty percent (30%) of the members of any board, commission or committee shall be non-Morgan Hill residents.

C. Members shall be appointed by the mayor subject to approval of a majority vote of the city council and may be removed without cause by vote of any three members of the city council.

D. The appointment terms of members may be extended, at the discretion of the city council, until such time as a successor member may be appointed and take office.

E. Vacancies in the commission occurring other than by expiration of term shall be filled for the unexpired term in the same manner as original appointments.

F. The members of the commission shall organize the commission and shall elect from its members a chair and vice-chair and such other officers as may be necessary in accordance with adopted city council policy.

2.22.030 Clerk and secretary.

The city clerk or designate shall also act as clerk for each of the boards and commissions and shall have authority to sign any official notices and also to certify any resolution of the commissions or boards. The city council may appoint a person not a member of the commission or board to act as secretary of the commission or board. The secretary shall keep a record of all proceedings of said board or commission, its resolutions, its findings and actions, which records shall be a public record and copies thereof shall be kept with the city clerk in the City Hall building.

2.22.040 Rules of procedure.

A. The chair shall preside at all meetings of the board or commission. The vice chair shall assume the duties of the chair in the absence of or in case of inability of the chair.

B. A majority of the members of the commission or board shall constitute a quorum for the transaction of business.

C. Unless otherwise specified herein, eEach board or commission may adopt its own rules and regulations for the transaction of its business. Such rules shall be subject to approval of the city council before becoming effective.

2.22.050 Rules of attendance.

If any member is absent from three of any six consecutive regular board or commission meetings, unless such absence is with the permission of the chair, or vice chair in absence of the chair, expressed in the official minutes, the member's seat shall be deemed vacated. The city manager shall so notify the city council and the council shall take action to fill the seat within a reasonable period of time.

2.22.060 Meetings.

~~A board or commission shall hold regular meetings as deemed necessary by the chair, simple majority of the members, the city manager or the city council.~~ Unless otherwise specified, the commission shall hold regular meetings at least once a month at a designated time and place which shall be fixed and determined by the commission and entered upon in its minutes. Special meetings of the commission may be called at any time by the chair or by a majority of the members of the board upon notice being given to all members of the board and to all news media at least twenty-four (24) hours in advance of the meetings, as required by the laws of the state of California.

2.22.070 Compensation.

Members of the boards and commissions shall serve without compensation but shall may receive reimbursement for actual and necessary expenditures made or incurred in the performance of their prescribed duties in accordance with state law and the Municipal Code and policies of the City of Morgan Hill.

2.22.080 Effect.

Nothing in this chapter shall be construed as restricting or curtailing any of the powers of the city council or city officers as defined by the laws of the state of California or by this Municipal Code. Except as otherwise set forth in chapter 2.36, the city council declares that the public interest and convenience require the appointment of the boards and commissions established pursuant to section 2.22.010 to act purely in an advisory capacity to the city council.

Section 3. Chapter 2.28 [Health Commission] of Title 2 [Administration and Personnel] of the City of Morgan Hill Municipal Code is hereby deleted in its entirety.

Section 4. Chapter 2.32 [Parks and Recreation Commission] of Title 2 [Administration and Personnel] of the City of Morgan Hill Municipal Code is hereby amended in its entirety to read as follows:

Chapter 2.32

PARKS AND RECREATION COMMISSION

Sections:

- 2.32.010 Created.**
- 2.32.020 Membership—Terms of office.**
- ~~2.32.030 Meetings.~~**
- ~~2.32.040~~ 2.32.030 Powers and duties.**
- ~~2.32.050 Effect.~~**

2.32.010 Created.

There is established a new commission which is entitled the "Morgan Hill parks and recreation commission" to serve in an advisory capacity to the city council.

2.32.020 Membership—Terms of office.

The commission shall consist of seven members, ~~at least five of which must be residents of and registered voters of the city of Morgan Hill.~~ Members shall not be officials or employees of the city nor be paid members of any organization receiving financial support from the city. Notwithstanding any language to the contrary, The

the mayor and city council may appoint a Morgan Hill Unified School District official, as a member of the commission.

~~A. Members are appointed by the mayor with the consent of the city council and serve at the pleasure of the city council. The term of office of the members of the commission shall be for two years or until their successors are appointed.~~

~~B. For the first seven members appointed, the terms of three of the members shall expire on May 1, 1999, and the terms of four of the members shall expire on May 1, 2000. Thereafter, all terms shall be for two years and shall expire April 1st.~~ **All new full term appointments after April 1, 2006 shall be for a period of four (4) years.**

~~C. Any member may be removed, without cause, by a vote of any three members of the city council. If a vacancy occurs other than by expiration of a term, it shall be filled by the mayor's appointment for the unexpired portion of the term, with the approval of the city council. (Ord. 1407 N.S. § 1, 1998; Ord. 1368 N.S. § 1 (part), 1997)~~

~~2.32.030~~ Meetings.

~~A. The commission shall establish a regular place of meetings and shall hold at least one regular meeting each month.~~

~~B. The commission shall select from its members a chair and vice chair in accordance with adopted city council policy.~~

~~C. The commission may adopt, from time to time, such rules and regulations for the transaction of its business, or rules for conduct, as may be necessary to properly exercise its functions. Such rules shall be subject to approval of the city council before becoming effective.~~

~~D. Special meetings may be called in the manner required by the laws of the state of California. Special meetings may called at any time, by the chair or by four members of the commission, upon notice being given to all members of the commission and to all news media at least twenty-four hours in advance of the meetings, as required by the laws of the state of California.~~

~~E. A majority vote of a quorum of members is required to approve a recommendation or any matter that is presented to the commission which requires a vote.~~

~~F. The commission shall keep an accurate record of all proceedings and transactions, and through the city manager or his/her designee shall render such reports to the city council as may be required. (Ord. 1368 N.S. § 1 (part), 1997)~~

~~2.32.040~~ ~~2.32.030~~ Powers and duties.

The powers and functions of the commission shall be as follows:

A. To hold hearings on matters pertaining to planning and development of parks, ~~cultural facilities~~, recreation programs for all segments of the population, bicycle facilities, and capital expenditures related to parks, ~~cultural facilities~~, recreational facilities, and bicycle facilities;

B. To facilitate coordination of the efficient and effective use of recreation facilities by other public, private, and non-profit groups and organizations to city residents;

C. To consider, formulate and propose fiscally prudent programs, activities, resources, plans and development designed to provide for, regulate, and direct the future growth and development of the parks facilities and recreation programming for the people of the city;

D. To make investigations and reports for future acquisition of park sites;

E. To review opportunities for joint use of recreation/parks, and storm retention/detention;

F. The commission may establish, consistent with adopted rules to be approved by the city council, a ~~senior advisory committee~~, youth advisory committee, and bicycle advisory subcommittee to assist in development of plans and programs to facilitate programs for persons within these defined categories. Members of these committees need not be members of the commission;

G. To conduct such other hearings as are necessary and in accordance with its own rules and regulations for the transaction of its business, or rules for conduct; and

H. To report its decisions and recommendations relating to the above matters, in writing to the city council.

~~2.32.050~~ Effect.

~~Nothing in this chapter shall be construed as restricting or curtailing any of the powers of the city council or city officers as defined by the laws of the state of California or by this municipal code. The city council declares that the public interest and convenience require the appointment of a parks and recreation commission to act purely in an advisory capacity to the city council. (Ord. 1368 N.S. § 1 (part), 1997)~~

Section 5. Section 2.36.020 [Membership—Terms of office—Vacancies] of Chapter 2.36 [Planning Commission] of Title 2 [Administration and Personnel] of the City of Morgan Hill Municipal Code is hereby amended as follows:

A. ~~The city planning commission shall consist of seven members, six of whom shall reside within the city limits and one of whom may reside outside the city limits but within the city's sphere of influence.~~ Members of the planning commission shall serve the following terms:

1. In the year 1998, three members shall be appointed to serve terms ending June 1, 2001.

2. The four members who were appointed in 1996 shall serve terms ending June 1, 1999.

3. Thereafter, all terms shall be for four years and shall expire on June 1st.

~~B. Members shall be appointed by the mayor, subject to majority approval of the city council.~~

~~C. Vacancies on the commission shall be filled for the unexpired terms in the same manner as original appointments. (Ord. 1407 N.S. § 2, 1998; Ord. 1083 N.S. § 1, 1992; Ord. 811 N.S. § 1 (II-3-2), 1987)~~

Section 6. Section 2.56.020 [Membership] of Chapter 2.56 [Architectural and Site Review Board] of Title 2 [Administration and Personnel] of the City of Morgan Hill Municipal Code is hereby amended as follows:

2.56.020 Membership.

A. The city ARB shall consist of five members, ~~four of whom shall reside within the city limits and one of whom may reside outside the city limits, but within the city's sphere of influence.~~ Members of the ARB must represent **one of** the following professions **or areas of expertise**: ~~one a~~ registered architect or design professional in a related field selected by the city council; ~~one a~~ landscape architect (or horticulturist); a licensed general contractor (or a similarly qualified individual representing the construction industry); and two other persons with experience in city planning, graphic design or a broad knowledge of plant material, building design or of other physical design professions associated with the development process. **The City Council may appoint any combination of the above areas, as deemed appropriate.**

Section 7. Subsection 2.56.020B of Section 2.56.020 [Membership] and Sections 2.56.040 [Organization] and 2.56.050 [Meetings] of Chapter 2.56 [Architectural and Site Review Board] Title 2 [Administration and Personnel] of the City of Morgan Hill Municipal Code are hereby repealed in their entirety.

Section 8. Section 2.64.020 [Candidates] of Section 2.64 [Mobile Home Rent Commission] of Title 2 [Administration and Personnel] of the City of Morgan Hill Municipal Code is hereby repealed in its entirety.

Section 9. Chapter 2.68 [Library Commission] of Title 2 [Administration and Personnel] of the City of Morgan Hill Municipal Code is hereby amended in its entirety to read as follows:

Chapter 2.68

LIBRARY, CULTURE AND ARTS COMMISSION

Sections:

- 2.68.010 Created.**
- 2.68.020 Membership--Terms of office.**
- 2.68.030 ~~Meetings.~~**
- 2.68.040 2.68.030 Powers and duties.**
- 2.68.050 ~~Effect.~~**

2.68.010 Created.

There is established a new commission which is entitled the "library, **culture and arts** commission" to serve in an advisory capacity to the city council. (Ord. 1374 N.S. § 1 (part), 1998)

2.68.020 Membership—Terms of office.

The commission shall consist of up to nine seven members., at least four of whom shall be residents and registered voters of the city of Morgan Hill. The mayor and city council may appoint up to three members who reside in the unincorporated area of Santa Clara County and/or otherwise within Morgan Hill's sphere of influence. Members shall not be officials or employees of the city, county library employees nor paid members of any organization receiving financial support from the city for library and art services.

~~A. Members are appointed by the mayor with the consent of the city council and serve at the pleasure of the city council. The term of office of the members of the commission shall be for two years and shall expire on April 1st or until their successors are appointed~~

~~B. Any member may be removed without cause, by a vote of any three members of the city council. If a vacancy occurs other than by expiration of a term, it shall be filled by the mayor's appointment for the unexpired portion of the term, with the approval of the city council. (Ord. 1559 N.S. § 1, 2002; Ord. 1407 N.S. § 5, 1998; Ord. 1382 N.S. § 1, 1998; Ord. 1374 N.S. § 1 (part), 1998)~~

2.68.030 Meetings.

~~A. The commission shall establish a regular place of meetings and shall hold at least one regular meeting each month.~~

~~B. The commission shall select from its members a chair and vice chair in accordance with adopted city council policy.~~

~~C. The commission may adopt, from time to time, such rules and regulations for the transaction of its business, or rules for conduct, as may be necessary to properly exercise its functions. Such rules shall be subject to approval of the city council before becoming effective.~~

~~D. Special meetings may be called in the manner required by the laws of the state of California. Special meetings may be called at any time, by the chair or by four members of the commission, upon notice being given to all members of the commission and to all news media at least twenty-four hours in advance of the meetings, as required by the laws of the state of California.~~

~~E. A majority vote of a quorum of members is required to approve a recommendation or any matter that is presented to the commission which requires a vote.~~

~~F. The commission shall keep an accurate record of all proceedings and transactions, and through the city manager or his/her designee shall render such reports to the city council as may be required. (Ord. 1374 N.S. § 1 (part), 1998)~~

2.68.040 2.68.030 Powers and duties.

The powers and functions of the commission shall be as follows:

A. To advise act in an advisory capacity to the city council on the adequacy of in all matters pertaining to library, culture and arts services to the people of the city in the community;

- B. To serve as a liaison between the city and the Santa Clara County library;
- C. To consult with private community groups supportive of library, culture and art programs and serve as a liaison between such groups and the city;
- D. To provide advice and recommendations regarding the adequacy of existing library facilities and operations;
- E. To look for opportunities for participation of artists and performers in City-sponsored activities, and ways to encourage community involvement in the arts;
- F. To work cooperatively with city boards and commissions and other public and private organizations in creating and promoting art and cultural programs and activities within the city;
- G. To coordinate and strengthen existing organizations in the arts and develop cooperation with regional organizations;
- H. To make recommendations to the city council regarding the funding of community art projects, including the search for private and public grants, and regarding the disbursement of revenues consistent with the needs of the community;
- I. To review and make recommendations to the city council upon all works of art to be acquired by the city, either by purchase, gift or otherwise, and exterior works of art installed in the city on public property;
- J. To recommend to the city council the adoption of such ordinances or policies as it may deem necessary for the administration and preservation of the arts and cultural development of the city;
- E~~K~~. To perform such other tasks as may be expressly requested of it by the city council;
- F~~L~~. To conduct such other hearings as are necessary and in accordance with its own rules and regulations for the transaction of its business, or rules for conduct; and
- G~~M~~. To report its decisions and recommendations relating to the above matters, in writing to the city council. (Ord. 1374 N.S. § 1 (part), 1998)

~~2.68.050 — Effect.~~

~~Nothing in this chapter shall be construed as restricting or curtailing any of the powers of the city council or city officers as defined by the laws of the state of California or by this municipal code. The city council declares that the public interest and convenience require the appointment of a library commission to act purely in an advisory capacity to the city council. (Ord. 1374 N.S. § 1 (part), 1998)~~

Section 10. Chapter 2.70 [Senior Advisory Commission] is hereby added to Title 2 [Administration and Personnel] of the City of Morgan Hill Municipal Code as follows:

Chapter 2.70

SENIOR ADVISORY COMMISSION

Sections:

2.70.010 Created.

2.70.020 Membership – Terms of office.

2.70.030 Powers of duties.

2.70.010 Created.

There is established a new commission which is entitled the “senior advisory commission” to serve in an advisory capacity to the city council.

2.70.020 Membership—Terms of Office.

The Commission shall consist of seven members, who shall be chosen by the city council from a list of nominees or applicants.

A. Members are appointed by the mayor with the consent of the city council and serve at the pleasure of the city council. The term of office of the members of the commission shall be for two years or until their successors are appointed.

B. Terms for four of the commissioners shall expire in June 2007 and the other three commissioners’ terms shall expire in June 2008.

2.70.030 Powers and duties.

The powers and functions of the commission shall be as follows:

A. To hold hearings on matters pertaining to older adult issues within the community, including the senior center, senior programming, accessibility, transportation, healthcare, nutrition, and/or other related older adult issues.

B. To consider, formulate and propose fiscally prudent programs, activities, resources, plans and development designed to provide for, regulate, and direct future programming needs for older adult issues.

C. To conduct such other hearings as are necessary and in accordance with its own rules and regulations for the transaction of its business, or rules for conduct; and

D. To report its decisions and recommendations relating to the above matters, in writing to the City Council.

Section 10. Severability. Should any provision of this ordinance be deemed unconstitutional or unenforceable by a court of competent jurisdiction, such provision shall be severed from the ordinance, and such severance shall not affect the remainder of the ordinance.

Section 11. Effective Date; Posting. This ordinance shall take effect thirty (30) days after its second reading. The City Clerk is hereby directed to publish this ordinance pursuant to §36933 of the Government Code.

The foregoing ordinance was introduced at the regular meeting of the City Council of the City of Morgan Hill held on the ____ Day of 2006, and was finally adopted at a regular meeting of said Council on the ____ Day of 2006, and said ordinance was duly passed and adopted in accordance with law by the following vote:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:

ATTEST:

APPROVED:

Irma Torrez, City Clerk

Dennis Kennedy, Mayor

∞ **CERTIFICATE OF THE CITY CLERK** ∞

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Ordinance No. _____, adopted by the City Council of the City of Morgan Hill, California at their regular meeting held on the ____ Day of _____, 2006.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____, 2006

IRMA TORREZ, City Clerk